PRINTER'S NO. 839

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 809 Session of 2025

INTRODUCED BY STRUZZI, POWELL, FRANKEL, GREEN, KHAN, MALAGARI AND SANCHEZ, MARCH 5, 2025

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 5, 2025

AN ACT

Amending the act of April 14, 1972 (P.L.233, No.64), entitled "An act relating to the manufacture, sale and possession of controlled substances, other drugs, devices and cosmetics; conferring powers on the courts and the secretary and Department of Health, and a newly created Pennsylvania Drug, Device and Cosmetic Board; establishing schedules of controlled substances; providing penalties; requiring registration of persons engaged in the drug trade and for the revocation or suspension of certain licenses and registrations; and repealing an act," further providing for definitions and for prohibited acts and penalties; and providing for syringe service programs authorized.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definition of "drug paraphernalia" in section 2(b) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, is amended to read:

Section 2. Definitions.--* * *

(b) As used in this act:

* * *

"Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use or

designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this act. It includes, but is not limited to:

(1) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.

(3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

(5) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances.

(7) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marihuana.

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding

controlled substances.

(9) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injected controlled substances into the human body. The term does not include a syringe, needle or other harm reduction supplies used to prevent the transmission of disease and reduce morbidity and mortality among individuals who use controlled substances, provided by a public or private entity through a syringe service program to a participant in the syringe service program in accordance with section 13.10 or a pharmacy or health care provider in accordance with all applicable rules and regulations. For purposes of this paragraph, the term "health care provider" means an individual or health care facility that is licensed, certified or otherwise authorized to provide health care under the laws of this Commonwealth. The term also includes an officer, employe or agent of a health care provider acting within the scope of the person's duties and authority and a legal entity through which one or more health care providers deliver health care, including a professional corporation, partnership or limited liability company.

(12) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads

or punctured metal bowls.

(ii) Water pipes.

(iii) Carburetion tubes and devices.

(iv) Smoking and carburetion masks.

(v) Roach clips; meaning objects used to hold burning material such as a marihuana cigarette, that has become too small or too short to be held in the hand.

(vi) Miniature cocaine spoons and cocaine vials.

(vii) Chamber pipes.

(viii) Carburetor pipes.

(ix) Electric pipes.

(x) Air-driven pipes.

(xi) Chillums.

(xii) Bongs.

(xiii) Ice pipes or chillers.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, statements by an owner or by anyone in control of the object concerning its use, prior convictions, if any, of an owner, or of anyone in control of the object, under any State or Federal law relating to any controlled substance, the proximity of the object, in time and space, to a direct violation of this act, the proximity of the object to controlled substances, the existence of any residue of controlled substances on the object, <u>except as provided under section 13(g),</u> direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of this act, the innocence of an owner or of anyone in control of the object, as

to a direct violation of this act should not prevent a finding that the object is intended for use or designed for use as drug paraphernalia, instructions, oral or written, provided with the object concerning its use, descriptive materials accompanying the object which explain or depict its use, national and local advertising concerning its use, the manner in which the object is displayed for sale, whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products, direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise, the existence and scope of legitimate uses for the object in the community, and expert testimony concerning its use.

This definition does not include testing products utilized in determining whether a controlled substance contains chemicals, toxic substances or hazardous compounds in quantities which can cause physical harm or death. The term "testing products" shall include, but is not limited to, fentanyl test strips.

* * *

Section 2. Section 13 of the act is amended by adding a subsection to read:

Section 13. Prohibited Acts; Penalties.--* * *

(g) A person may not be prosecuted for a residual amount of a controlled substance contained in a used syringe, needle or other harm reduction supplies excluded from the definition of "drug paraphernalia" under section 2(b).

Section 3. The act is amended by adding a section to read:

Section 13.10. Syringe Service Programs Authorized.--(a) A syringe service program may be established by a public or

private entity, including a nonprofit organization, for the purpose of preventing the transmission of disease and reducing morbidity and mortality among individuals who use controlled substances.

(b) A program shall:

(1) Provide sterile needles or syringes to participants.

(2) Provide referrals for HIV, viral hepatitis, substance use disorder prevention, care and treatment services and mental health treatment services to participants.

(3) Provide referrals to individuals who are under 18 years of age to age-appropriate substance use disorder prevention, care and treatment services and mental health treatment services.

(4) Register with the department and confirm registration annually on or before January 1 of each year.

(5) Create and distribute unique identification cards to participants, which shall contain, at a minimum, the following information:

(i) A unique identification number.

(ii) The name of the program.

(iii) The contact information for the program.

(6) Report annually to the department in accordance with subsection (d).

(7) Establish a secure syringe or needle collection and disposal site to ensure the safe and proper disposal of used syringes or needles.

(c) A program may provide an opioid antagonist to a participant.

(d) A program shall report the following information to the department on an annual basis:

(1) The number of current participants.

(2) The number of syringes or needles distributed to participants.

(3) The number of syringes or needles collected and disposed of at the program's disposal site under subsection (b)(7).

(4) The number of substance use disorder treatment referrals made to participants.

(5) The number of HIV, viral hepatitis and mental health treatment referrals made to participants.

(6) The number of opioid antagonists distributed to participants.

(e) The following apply to the operations of a syringe service program:

(1) A program may not:

(i) Except as provided in subparagraph (ii), operate within 500 feet of the real property on which is located a public, private or parochial school.

(ii) In a county of the first, second or second class A, operate within 250 feet of the real property on which is located a public, private or parochial school.

(iii) Operate within 250 feet of real property on which is located a playground.

(2) Paragraph (1) does not apply to:

(i) A syringe service program that began operations prior to the effective date of this subparagraph.

(ii) A health care facility, as defined in section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the "Health Care Facilities Act."

(iii) A hospital, as defined in section 802.1 of the "Health Care Facilities Act."

(f) The department shall provide oversight of a program to ensure compliance under this section and to assess, prevent, minimize and mitigate risk to the health, safety and welfare of the public, the community in which the program is located and the environment.

(g) The department may promulgate rules and regulations as are necessary to carry out this section.

(h) The department shall issue an annual report and post the report on the department's publicly accessible Internet website. The report shall identify, at a minimum, the following information:

(1) The name and location of every program.

(2) The total number of participants of each program.

(3) The total number of syringes or needles distributed by each program.

(4) The total number of syringes or needles collected and disposed of by each program.

(5) The number of substance use disorder treatment referrals made to participants of each program.

(6) The number of HIV, viral hepatitis and mental health treatment referrals made to participants of each program.

(7) The number of opioid antagonists distributed to participants of each program.

(i) In the absence of willful misconduct or gross negligence, a program shall be immune from civil and criminal liability for activities authorized by this section.

(j) As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Nonprofit organization." As defined in 42 Pa.C.S. §

8332.6(b) (relating to antidrug and town-watch volunteer civil immunity).

"Opioid antagonist." As defined in section 13.8(h).

"Participant." An individual who participates in a program.

"Program." A syringe service program authorized under this section.

Section 4. The following shall apply:

(1) The Department of Health shall issue guidance on best practices for syringe service programs.

(2) Prior to commencing operations of a syringe service program, the syringe service program shall report the following to the Department of Health:

(i) The legal name of the organization, agency or health care facility operating the syringe service program.

(ii) The areas and populations to be served by the syringe service program.

(iii) The written notice of the proposed location to the governing authority in which the syringe service program is to be located.

Section 5. This act shall take effect in 60 days.