

Title 17-A: MAINE CRIMINAL CODE
Part 2: SUBSTANTIVE OFFENSES
Chapter 45: DRUGS

§1111-A

§1111. Illegal possession of hypodermic apparatuses

1. A person is guilty of illegal possession of hypodermic apparatuses if the person intentionally or knowingly possesses 11 or more hypodermic apparatuses, unless the conduct that constitutes such possession is:

A. Expressly authorized by Title 22, section 2383-B or Title 32, section 13787-A. [1997, c. 340, §2 (AMD).]

B. [1997, c. 340, §2 (RP).]

[1997, c. 340, §2 (AMD) .]

2. Illegal possession of hypodermic apparatuses is a Class D crime.

[1997, c. 340, §2 (AMD) .]

3. It is an affirmative defense to prosecution under this section that the person possessing the hypodermic apparatuses is enrolled in a hypodermic apparatus exchange program that is certified by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and is transporting the hypodermic apparatuses to the program

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§1111

§1110. Trafficking in or furnishing hypodermic apparatuses

1. Except as provided in subsection 1-B, paragraph A, a person is guilty of trafficking in hypodermic apparatuses if the person intentionally or knowingly trafficks in one or more hypodermic apparatuses. Violation of this subsection is a Class C crime.

A. [2001, c. 383, §156 (AFF); 2001, c. 383, §131 (RP).]

B. [1997, c. 340, §1 (RP).]

[2001, c. 383, §131 (AMD); 2001, c. 383, §156 (AFF) .]

1-A. Except as provided in subsection 1-B, paragraph B, a person is guilty of furnishing hypodermic apparatuses if the person intentionally or knowingly furnishes 11 or more hypodermic apparatuses. Violation of this subsection is a Class D crime.

[2001, c. 383, §132 (AMD); 2001, c. 383, §156 (AFF) .]

1-B. The following exceptions apply.

A. A person is not guilty of trafficking in hypodermic apparatuses if the conduct that constitutes the trafficking is expressly authorized by Title 32, section 13787-A. [2001, c. 383, §133 (NEW); 2001, c. 383, §156 (AFF).]

B. A person is not guilty of furnishing hypodermic apparatuses if the conduct that constitutes the furnishing is expressly authorized by Title 22, section 2383-B. [2001, c. 383, §133 (NEW); 2001, c. 383, §156 (AFF).]

[2001, c. 383, §133 (NEW); 2001, c. 383, §156 (AFF) .]

1-C. It is an affirmative defense to prosecution under subsection 1-A that the person furnishing the hypodermic apparatuses is enrolled in a hypodermic apparatus exchange program that is certified by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and is furnishing the hypodermic apparatuses to an employee of such a program.

Title 22: HEALTH AND WELFARE
Subtitle 2: HEALTH
Part 5: FOODS AND DRUGS
Chapter 558: MARIJUANA, SCHEDULED DRUGS, IMITATION
SCHEDULED DRUGS AND HYPODERMIC APPARATUSES
§2383-C

§2383-B. Authorized possession by individuals

1. Lawfully prescribed drugs. A person to whom or for whose use any scheduled drug, prescription drug or controlled substance has been prescribed, sold or dispensed for a legitimate medical purpose by a physician, dentist, podiatrist, pharmacist or other person acting in the usual course of professional practice and authorized by law or rule to do so and the owner or the person having the custody or control of any animal for which any scheduled drug, prescription drug or controlled substance has been prescribed, sold or dispensed for a legitimate veterinary medical purpose by a licensed veterinarian acting in the usual course of professional veterinary practice may lawfully possess the drug or substance, except when in use, only in the container in which it was delivered by the person selling or dispensing the drug or substance. For purposes of this subsection, "when in use" includes reasonable repackaging for more convenient legitimate medical use.

[2005, c. 252, §2 (AMD) .]

2. Others lawfully in possession. Except as otherwise authorized or restricted, the following persons are authorized to possess, furnish and have control of scheduled or prescription drugs, controlled substances or hypodermic apparatuses:

A. Common carriers or warehouse operators while engaged in lawfully transporting or storing prescription drugs or hypodermic apparatuses or any of their employees acting within the scope of their employment; [1997, c. 340, §5 (AMD).]

B. Employees or agents of persons lawfully entitled to possession who have temporary, incidental possession while acting within the scope of their employment or agency; [1995, c. 499, §3 (AMD); 1995, c. 499, §5 (AFF).]

C. Persons whose possession is for the purpose of aiding public officers in performing their official duties while acting within the scope of their employment or duties; [1995, c. 499, §3 (AMD); 1995, c. 499, §5 (AFF).]

D. Law enforcement officers while acting within the scope of their employment and official duties; [1997, c. 340, §5 (AMD).]

E. Physicians, dentists, podiatrists, pharmacists or other persons authorized by law or rule to administer, dispense, prescribe or sell scheduled or prescription drugs, controlled substances or hypodermic apparatuses while acting within the course of their professional practice; [2013, c. 266, §9 (AMD).]

F. With regard to the possession or furnishing of hypodermic apparatuses, persons authorized by the Bureau of Health pursuant to a hypodermic apparatus exchange program, certified under chapter 252-A while acting within the scope of their employment under such programs; and [2013, c. 266, §9 (AMD).]

G. Persons conducting research at a school of pharmacology that is accredited or is a candidate for accreditation in good standing. [2013, c. 266, §10 (NEW).]
[2013, c. 266, §§9, 10 (AMD) .]

2-A. Others so authorized.

[2013, c. 194, §12 (RP) .]

3. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Controlled substances" has the same meaning as defined in 21 United States Code, Section 812 (1970) and 21 Code of Federal Regulations, Chapter II, Part 1308. [1995, c. 499, §3 (NEW); 1995, c. 499, §5 (AFF).]

A-1. [2011, c. 420, Pt. A, §13 (RP).]

A-2. [2011, c. 420, Pt. A, §14 (RP).]

B. "Law enforcement officer" has the same meaning as defined in Title 17-A, section 2, subsection 17. [1995, c. 499, §3 (NEW); 1995, c. 499, §5 (AFF).]

B-1. "Physician" means a person licensed as an osteopathic physician by the Board of Osteopathic Licensure pursuant to Title 32, chapter 36 or a person licensed as a physician or surgeon by the Board of Licensure in Medicine pursuant to Title 32, chapter 48. [IB 1999, c. 1, §8 (NEW).]

C. "Prescription drugs" has the same meaning as defined in Title 32, section 13702-A, subsection 30 and includes so-called legend drugs. [2007, c. 695, Pt. B, §4 (AMD).]

D. "Scheduled drug" has the same meaning as defined in Title 17-A, chapter 45. [1995, c. 499, §3 (NEW); 1995, c. 499, §5 (AFF).]

D-1. [2013, c. 194, §13 (RP).]

E. [2011, c. 420, Pt. A, §15 (RP).]

[2013, c. 194, §13 (AMD) .]

4. Specially restricted drugs and substances.

[1995, c. 621, §3 (RP) .]

5. Medical use of marijuana; exemptions.

[IB 2009, c. 1, §4 (RP) .]

6. Lawful possession of hypodermic apparatuses by livestock owners; sale to livestock owners. A person who owns livestock is authorized to possess and have control of hypodermic apparatuses for the purpose of administering antibiotics, vitamins and vaccines to treat medical conditions or promote the health of that person's livestock, and such possession and control are expressly authorized within the meaning of Title 17-A, section 1111, subsection 1, paragraph A. For the purposes of this subsection, "livestock" means cattle, equines, sheep, goats, swine, members of the genus Lama, poultry, rabbits and cervids as defined in Title 7, section 1333, subsection 1.

A. An agricultural supply store authorized to sell hypodermic apparatuses pursuant to Title 32, section 13787-A, subsection 1 may furnish or sell, without limit in number, hypodermic apparatuses to a person authorized to possess and have control of hypodermic apparatuses pursuant to this subsection, and such furnishing or sale is expressly authorized within the meaning of Title 17-A, section 1110, subsection 1-B. [2015, c. 27, §1 (NEW) .]

Title 22: HEALTH AND WELFARE
Subtitle 2: HEALTH
Part 3: PUBLIC HEALTH
Chapter 252-A: HYPODERMIC APPARATUS EXCHANGE PROGRAMS
§1346

§1341. Hypodermic apparatus exchange programs

1. Certification of programs. The Maine Center for Disease Control and Prevention may certify hypodermic apparatus exchange programs that meet the requirements established by rule under subsection 2, paragraphs A to D.

A. The Maine Center for Disease Control and Prevention may not limit the number of hypodermic apparatuses provided by the programs to participants. [2007, c. 346, Pt. A, §1 (NEW).]

B. The Maine Center for Disease Control and Prevention may not limit the number of hypodermic apparatuses that participants served by the programs may legally possess, transport or exchange. [2007, c. 346, Pt. A, §1 (NEW).]
[2015, c. 507, §1 (AMD) .]

2. Rules. The Maine Center for Disease Control and Prevention shall adopt rules pursuant to the Maine Administrative Procedure Act establishing requirements for hypodermic apparatus exchange programs and for program certification requirements. The rules must include but are not limited to:

A. Procedures for the safe disposal of hypodermic apparatuses; [1997, c. 340, §3 (NEW).]

B. Tracking the number of hypodermic apparatuses distributed and collected; [2007, c. 346, Pt. A, §1 (AMD).]

C. Drug abuse prevention and treatment education; [2015, c. 507, §1 (AMD).]

D. Distribution of educational material regarding the dangers associated with the use of used hypodermic apparatuses; [2015, c. 507, §1 (AMD).]

E. Application procedures for a certified hypodermic apparatus exchange program to apply for funds to operate the program including the purchase and disposal of hypodermic needles; [2015, c. 507, §1 (NEW).]

F. Criteria for the award of funds to certified hypodermic apparatus exchange programs; [2015, c. 507, §1 (NEW).]

G. Oversight of certified hypodermic apparatus exchange programs; [2015, c. 507, §1 (NEW).]

H. Renewal every 5 years of department certification of hypodermic apparatus exchange programs; [2015, c. 507, §1 (NEW).]

I. Complaint investigation procedures; and [2015, c. 507, §1 (NEW).]

J. Criteria for decertification of hypodermic apparatus exchange programs. [2015, c. 507, §1 (NEW).]

Rules adopted or amended pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2015, c. 507, §1 (AMD) .]

3. Reports. The Maine Center for Disease Control and Prevention shall report to the joint standing committees of the Legislature having jurisdiction over judiciary matters and health and human services matters by January 15, 1999 and annually thereafter on hypodermic apparatus

exchange programs certified under this section. The report must include but is not limited to: the number, location and operators of hypodermic apparatus exchange programs; data on hypodermic apparatuses distributed and collected; and the number of persons served by the programs.

[2007, c. 346, Pt. A, §1 (AMD) .]

4. Funding. This subsection governs the use of state funds for hypodermic apparatus exchange programs certified pursuant to this section. This subsection is not intended to limit the ability of certified programs to secure other sources of funding or to discourage fund-raising for the purpose of operating such programs. The Maine Center for Disease Control and Prevention shall allocate any funds appropriated for hypodermic apparatus exchange programs among new and existing certified programs based on rates of intravenous drug use and negative health outcomes related to drug use in the geographic area surrounding a program; if applicable, the amount of services historically provided by the certified program; and other relevant factors. The award of funds must occur not later than 60 days after the effective date of this subsection and annually thereafter based on the availability of funding.

[2015, c. 507, §2 (NEW) .]