
By: **Delegate Marriott**

Introduced and read first time: February 28, 2001

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Pharmacists - Dispensing Hypodermic Needles - Required Information -**
3 **Immunity**

4 FOR the purpose of requiring a pharmacist who dispenses a hypodermic needle to
5 provide certain information to the patient who receives the hypodermic needle;
6 providing a certain immunity for a pharmacist who provides certain information
7 about hypodermic needles; providing that a certain prohibition against
8 possessing or distributing certain controlled paraphernalia does not apply to the
9 possession of a certain number of hypodermic needles; and generally relating to
10 possession of a hypodermic needle and the information to be provided to a
11 patient receiving a hypodermic needle.

12 BY repealing and reenacting, with amendments,
13 Article - Health Occupations
14 Section 12-502
15 Annotated Code of Maryland
16 (2000 Replacement Volume)

17 BY adding to
18 Article 27 - Crimes and Punishments
19 Section 287(f)
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 2000 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article 27 - Crimes and Punishments
24 Section 287(d) and (e) and 287A(d)
25 Annotated Code of Maryland
26 (1996 Replacement Volume and 2000 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Health Occupations

2 12-502.

3 (a) In the operation of a pharmacy, only a licensed pharmacist or an individual
4 engaging in a professional experience program and acting under the direct
5 supervision of a licensed pharmacist may provide information to the public or a health
6 care practitioner concerning prescription or nonprescription drugs or devices
7 including information as to their therapeutic values, potential side effects, and use in
8 the treatment and prevention of diseases.

9 (b) A licensed pharmacist shall give a patient who requests, in person or by
10 telephone, the current price of a prescription drug or device that the pharmacy offers
11 for sale to the public.

12 (C) (1) A LICENSED PHARMACIST WHO DISPENSES A HYPODERMIC NEEDLE
13 SHALL PROVIDE THE PATIENT WITH THE FOLLOWING INFORMATION:

14 (I) THE LEGAL RESTRICTIONS ON THE USE OF A HYPODERMIC
15 NEEDLE;

16 (II) THE PROCEDURES TO FOLLOW FOR THE PROPER USE AND
17 HANDLING OF A HYPODERMIC NEEDLE; AND

18 (III) THE PROCEDURES TO FOLLOW FOR THE PROPER DISPOSAL OF
19 A USED HYPODERMIC NEEDLE.

20 (2) EXCEPT UNDER CIRCUMSTANCES THAT REASONABLY INDICATE THE
21 INTENTION OF ANY INDIVIDUAL TO USE A HYPODERMIC NEEDLE FOR THE ILLEGAL
22 ADMINISTRATION OF A CONTROLLED DANGEROUS SUBSTANCE, A PHARMACIST WHO
23 PROVIDES THE INFORMATION REQUIRED IN SUBSECTION (C) OF THIS SECTION MAY
24 NOT BE FOUND GUILTY OF VIOLATING ARTICLE 27, § 287(D)(1) OR § 287A(D)(1) OF THE
25 CODE.

26

Article 27 - Crimes and Punishments

27 287.

28 Except as authorized by this subheading, it is unlawful for any person:

29 (d) To possess or distribute controlled paraphernalia, which shall mean:

30 (1) A hypodermic syringe, needle or other instrument or implement or
31 combination thereof adapted for the administration of controlled dangerous
32 substances by hypodermic injections under circumstances which reasonably indicate
33 an intention to use such controlled paraphernalia for purposes of illegally
34 administering any controlled dangerous substance;

35 (2) Gelatin capsules, glassine envelopes or any other container suitable
36 for the packaging of individual quantities of controlled dangerous substances in

1 sufficient quantity to and under circumstances which reasonably indicate an
2 intention to use any such item for the illegal manufacture, distribution, or dispensing
3 of any such controlled dangerous substance. Evidence of such circumstances shall
4 include but not be limited to close proximity of any such controlled paraphernalia to
5 any adulterants or equipment commonly used in the illegal manufacture and
6 distribution of controlled dangerous substances, such as but not limited to any of the
7 following: scales, sieves, strainers, measuring spoons, staples and staplers, or
8 procaine hydrochloride, mannitol, lactose, quinine, or any controlled dangerous
9 substance; or

10 (3) Lactose, quinine, mannite, mannitol, dextrose, sucrose, procaine
11 hydrochloride or any other substance suitable as a diluent or adulterant in sufficient
12 quantity and under such circumstances which reasonably indicate an intention to use
13 any such substance for the illegal manufacture, distribution or dispensing of any
14 controlled substance. Evidence of such circumstances shall include but not be limited
15 to close proximity of any such controlled paraphernalia to any other adulterants,
16 diluents or equipment commonly used in the illegal manufacture and distribution of
17 controlled substances, such as but not limited to any of the following: scales, sieves,
18 strainers, measuring spoons, staples and staplers, glassine envelopes, gelatin
19 capsules, or any controlled substance.

20 (e) Any person who violates this section shall, upon conviction, be deemed
21 guilty of a misdemeanor and be sentenced to a term of imprisonment for not more
22 than four (4) years, a fine of not more than twenty-five thousand dollars (\$25,000), or
23 both; provided, however, that any such person convicted of a violation of this section
24 involving the use or possession of marihuana shall be punished by a period of
25 imprisonment not to exceed one (1) year or by a fine not to exceed \$1,000.00, or both.

26 (F) FOR PURPOSES OF SUBSECTION (D)(1) OF THIS SECTION, POSSESSION OF
27 10 OR FEWER HYPODERMIC NEEDLES UNDER CIRCUMSTANCES WHICH DO NOT
28 REASONABLY INDICATE THE INTENT TO ILLEGALLY ADMINISTER A CONTROLLED
29 DANGEROUS SUBSTANCES DOES NOT CONSTITUTE POSSESSION OR DISTRIBUTION
30 OF CONTROLLED PARAPHERNALIA.

31 287A.

32 (d) (1) It is unlawful for any person to deliver or sell, possess with intent to
33 deliver or sell, or manufacture with intent to deliver or sell drug paraphernalia,
34 knowing, or under circumstances where one reasonably should know, that it will be
35 used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
36 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject,
37 ingest, inhale, or otherwise introduce into the human body a controlled dangerous
38 substance in violation of this subheading. Any person who violates this subsection is
39 guilty of a misdemeanor and upon conviction for a first offense may be fined not more
40 than \$500. A person who is convicted of a subsequent violation of this subsection may
41 be imprisoned for not more than 2 years or fined not more than \$2,000 or both. Any
42 person convicted of violating this subsection who previously has been convicted of
43 violating paragraph (2) of this subsection shall be subject to the same penalties
44 specified for subsequent violations of this subsection.

1 (2) Any person 18 years of age or over who violates paragraph (1) of this
2 subsection by delivering drug paraphernalia to a person under 18 years of age who is
3 at least 3 years his junior is guilty of a separate offense and upon conviction may be
4 imprisoned for not more than 8 years, fined not more than \$15,000, or both.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect October 1, 2001.