



Pharmacy Sale of Syringes in California: What Does it Mean for Syringe Exchange Program (SEP) Participants?

Senate Bill (SB) 1159 (Vasconcellos, Statutes of 2004) was signed by Governor Arnold Schwarzenegger and went into effect January 1, 2005. The bill allows cities and counties to approve syringe sale without a prescription in their jurisdictions by authorizing a Disease Prevention Demonstration Project (DPDP).

SB 1159: A Brief Overview

SB 1159 permits individuals 18 years or older to:

- Purchase up to 10 syringes without a prescription from a participating pharmacy;
- Legally possess up to 10 syringes if acquired from an authorized source;
- Possess an unlimited number of syringes that are “containerized for safe disposal”.

Counties who authorize a DPDP program are required to:

- Maintain a list of registered pharmacies
- Make written information available to pharmacies to be shared with customers which includes information on:
 - Accessing drug treatment;
 - Accessing HIV and hepatitis C counseling, testing, and treatment;
 - How to safely dispose of syringes.

Pharmacies who participate are required to:

- Register with the county
- Store needles & syringes so they are available only to authorized pharmacy personnel
- Provide for disposal through either:
 - On-site syringe disposal program
 - Furnishing or selling mail-back sharps containers, or
 - Furnishing or selling personal sharps containers.

The State Office of AIDS must:

- Convene an evaluation advisory panel;
- Seek funding for the evaluation;
- Conduct research to monitor effects on:
 - Rates of disease infection
 - Needlestick injuries
 - Drug crime or other crime
 - Safe or unsafe syringe discard



- Rates of injection of illegal drugs
- Syringe sharing practices.

Additionally, the law changes pharmacy practice by repealing statutes that required pharmacists who sold syringes without a prescription to make a record of the purchase and record information about the purchaser.

The law also makes it a crime to dispose of a syringe on a playground, beach, park or any schoolyard. Penalty upon conviction may be a fine of \$200 to \$2000, or imprisonment for up to six months, or both the fine and imprisonment.

Step-by-Step: A Breakdown of the Law

The law says:

Individuals anywhere in the state now can carry syringes “containerized for safe disposal”, and these syringes cannot be considered as illegal drug paraphernalia.

Frequently asked questions:

Is this true only if the county has authorized a DPDP?

This is true throughout the state, as of January 1st, 2005. It doesn't matter if a county authorizes a DPDP or not.

Is it true for participants in exchanges that operate in jurisdictions that have not officially authorized syringe exchange?

Yes, it's true for everyone, anywhere in the state.

How many containerized syringes can be carried?

There is no limit on the number of syringes that may be carried in a container that meets state & federal standards for disposal of sharps waste.

What is a container?

The law defines a container as one that “meets state and federal standards for disposal of sharps waste.” There are no statutory state standards for household sharps waste disposal, and it is unclear whether or not federal standards would be interpreted as an FDA-approved container. EPA guidelines suggest that the question of what is a container is interpreted at the local level, and they include in their list of containers “approved household containers.” The Medical Waste Management Act, California Health



and Safety Code 117750 defines a sharps container as a “rigid puncture-resistant container that, when sealed, is leak resistant and cannot be reopened without great difficulty.” This act applies to waste generated in a medical setting, not a home setting, however it may be a good guideline to use when deciding what may qualify under the law as a container that meets state standards for disposal of sharps waste. Note that a coffee can, taped up with duct tape, would meet state standards for disposal of sharps waste.

Will the police still arrest SEP participants for transporting containerized syringes?

Yes, possibly. Not every police officer or sheriff will be aware of the change in the law, and perhaps those who are aware of it will not follow the change. The paraphernalia laws are used by law enforcement as a tool for getting people whom they consider to be “bad actors” off the streets. Many will be reluctant to give that up.

Can someone be arrested for a trace amount of drugs found in a used syringe?

Possibly, but a prior California Supreme Court ruling stated that individuals can only be convicted for possession of a “usable amount” of a controlled substance.

Is it a good idea for SEPs to let their clients know that they can carry syringes in a container?

Probably some SEPs will start recommending to participants that they may be able to protect themselves from possible arrest by carrying syringes in a container. Some SEPs might recommend one container for sterile syringes and one for used syringes, recognizing that the law doesn’t state whether or not the syringes are sterile, merely that they are containerized for safe disposal.

The law says:

- Individuals in county with a DPDP can purchase up to 10 syringes without a prescription if they are at least 18 years of age, and if
- Those 10 syringes are acquired from an authorized source.

Frequently asked questions:

What is an authorized source?

An authorized source is an authorized (legal) needle exchange or pharmacy that has registered to sell syringes in a county or city that has approved a DPDP.



How can people prove they got their syringes from an authorized source?

Some individuals may choose to carry a receipt. Authorized SEPs may issue a card or receipt noting that the syringes have been acquired from an authorized source.

Which pharmacies are selling syringes?

The county health department will keep a list of participating pharmacies. Most SEPs in counties that opt-in to the DPDP will probably get that list from the health department and make it available to their participants. Some health departments may make a decal or poster that pharmacists can display in their windows to indicate that they are a participating pharmacy.

Are pharmacists required to sell syringes?

No.

Will pharmacists require purchasers to show i.d.?

They may do so if the person looks younger than 18 years of age, otherwise, no. They are no longer required to record any information about the purchaser. However, many pharmacists may not be aware of this change in pharmacy practice: prior regulation required pharmacists to record information about any purchaser of syringes who did not have a prescription.

After buying syringes, can a person go right back into the pharmacy and buy another 10 syringes?

Yes, although individuals are only allowed to possess 10 at a time, so he or she would need to no longer be in possession of the 10 previously purchased syringes. Also, the pharmacist is not obliged to sell to anyone.

Can the police still arrest participants for possession of drug paraphernalia?

Yes, possibly, because not all law enforcement personnel are aware of changes in the law. Most health departments working on implementation are including law enforcement in their discussions, so that they will be informed of the changes in the paraphernalia law.



The law says:

Pursuant to authorization by **a county, with respect to all of the territory within the county, or a city, with respect to the territory within the city**, for the period commencing January 1, 2005, and ending December 31, 2010, a pharmacist may furnish or sell 10 or fewer hypodermic needles or syringes at any one time to a person 18 years of age or older if the pharmacist works for a pharmacy that is registered for the Disease Prevention Demonstration Project...

Frequently asked questions:

If my county approves a DPDP, does that mean that pharmacy sale is legal in my city, even if my city council doesn't agree?

Yes, although there also have to be pharmacies in your city willing to participate, and no pharmacy is obliged to participate. Santa Cruz County is an exception: their county counsel has interpreted the law to mean that each city in the county must also opt in.

Can a person be arrested for syringe possession if they cross county lines?

Yes, possibly. An individual in possession of "uncontainerized" syringes is in violation of paraphernalia laws in any county that has not authorized a DPDP.

And finally...

What counties or cities have already opted in?

As of January 31, 2008, these counties have opted in:

Alameda	Solano	Santa Cruz
Contra Costa	Sonoma	Yolo
Humboldt	San Luis Obispo	Yuba
Los Angeles	San Mateo	
Marin	Santa Barbara	
San Francisco	Santa Clara	

The cities of Sacramento, Los Angeles, Long Beach and West Hollywood have also authorized DPDPs. Many other local health jurisdictions are currently working on implementation.

How will injectors hear about this program?

Probably most will hear about it through needle exchanges, word of mouth, or the news media.



How can I find out what is being done in my county? How can SEPs help?

Call the California Department of Public Health, Office of AIDS (CDPH/OA, number below) to find out what's going on in your county, or call your local health department.

There's a lot that SEPs can do to make this program a success. SEPs are the experts in making syringes available to people who need them and they can consult with the local health department in the planning and execution stages of implementation. SEP staff, participants and volunteers can help recruit pharmacists to participate, and help educate pharmacists about serving IDU customers. They can do "test buys" at local pharmacies. They can review the educational materials that the health department creates for the project. They can testify at Board of Supervisors and City Council meetings. SEPs can volunteer to be syringe collection sites. Please make your expertise available to your local health departments.

The California Department of Public Health

The California Department of Public Health (CDPH) must complete an evaluation of the effects of the legislation, and deliver that report to the Legislature by January 15, 2010. CDPH is also required to convene a diverse body of professionals to aid in the evaluation of the statute, including representatives of law enforcement and public health.

CDPH/Office of AIDS provides technical support to local governments researching authorization and implementation of SB 1159. For more information, contact Alessandra Ross, M.P.H., Injection Drug Use Policy and Program Coordinator at (916) 449-5796 or e-mail at: Alessandra.Ross@cdph.ca.gov.