Sponsored by:
Senator JOSEPH F. VITALE
District 19 (Middlesex)
Senator LORETTA WEINBERG
District 37 (Bergen)
Assemblyman REED GUSCIORA
District 15 (Mercer)
Assemblyman GORDON M. JOHNSON
District 37 (Bergen)
Assemblyman CRAIG J. COUGHLIN
District 19 (Middlesex)

Co-Sponsored by:
Senators Scutari, Gill, Lesniak, Assemblywomen Voss, Tucker, Quigley, Assemblyman Giblin and Assemblywoman Spencer

SYNOPSIS
Permits limited pharmacy sales of syringes and needles without a prescription.

CURRENT VERSION OF TEXT
As amended on January 9, 2012 by the Senate pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 12/6/2011)
AN ACT concerning the sale and possession of hypodermic syringes and needles, \[2\text{and}^2\] supplementing Title 2C of the New Jersey Statutes and Title 45 of the Revised Statutes\[^2\]; \[and,\] and repealing N.J.S.2C:36-6\[^2\].

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. Notwithstanding any State law, rule or regulation to the contrary, a licensed pharmacy may sell a hypodermic syringe or needle, or any other instrument adapted for the administration of drugs by injection, to a person over 18 years of age \[who presents\] valid photo identification to demonstrate proof of age or who otherwise satisfies the seller that he is over 18 years of age\[^2\] as follows:
   (1) without a prescription if sold in quantities of 10 or fewer; and
   (2) pursuant to a prescription issued by a person authorized to prescribe under State law if sold in quantities of more than 10.

b. \[Notwithstanding any State law, rule or regulation to the contrary, possession of a hypodermic syringe or needle pursuant to paragraph (1) of subsection a. of this section shall not constitute an offense pursuant to N.J.S.2C:36-1 et seq.] A licensed pharmacy that provides hypodermic syringes or needles for sale shall also be required to:
   (1) maintain its supply of such instruments under or behind the pharmacy sales counter such that they are accessible only to a person standing behind a pharmacy sales counter; and
   (2) make available to each person who purchases any such instrument, at the time of purchase, information to be developed by the Department of Health and Senior Services to the purchaser, about:
      (a) the safe disposal of the instrument, including local disposal locations or a telephone number to call for that information; and
      (b) substance abuse treatment, including a telephone number to call for assistance in obtaining treatment\[^2\].

c. \[A] In addition to any other provision of law that may apply, a person who purchases a hypodermic syringe or needle pursuant to subsection a. of this section and sells that needle or syringe to another person is guilty of a \[crime of the fourth degree\] disorderly persons offense\[^1\].

EXPLANATION – Matter enclosed in bold-faced brackets \[thus\] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined \[thus\] is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
\[^1\]Senate SHH committee amendments adopted January 20, 2011.
\[^2\]Senate amendments adopted in accordance with Governor's recommendations January 9, 2012.
d. The Department Health and Senior Services, in consultation with the Department of Human Services and the New Jersey State Board of Pharmacy, may, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations to effectuate the purposes of subsection b. of this section. The Department of Health and Senior Services shall make the information that is to be developed pursuant to subsection b. of this section available to pharmacies and purchases of hypodermic syringes or needles through its Internet website.

2 A pharmacy that sells hypodermic syringes or needles, or any other instrument adapted for the administration of drugs by injection, shall do so in accordance with the provisions of section 1 of P.L., c. (C. ) (pending before the Legislature as this bill) and shall:

a. keep its supply of such instruments under or behind the sales counter and accessible only to a person standing behind the sales counter; and

b. make available to each person who purchases any such instrument, at the time of purchase, information developed by the New Jersey State Board of Pharmacy pursuant to section 3 of P.L., c. (C. ) (pending before the Legislature as this bill), which shall be provided in English or Spanish, as appropriate to the purchaser, about:

(1) the safe disposal of the instrument, including local disposal locations or a telephone number to call for that information; and

(2) [drug addiction] substance abuse treatment, including a telephone number to call for assistance in obtaining treatment.]

3 a. The New Jersey State Board of Pharmacy shall, in consultation with the Department of Health and Senior Services, develop information to be provided pursuant to section 2 of P.L., c. (C. ) (pending before the Legislature as this bill). The board shall make the information available to pharmacies and purchasers of hypodermic syringes or needles through its internet website.

b. The New Jersey State Board of Pharmacy, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of section 2 of P.L., c. (C. ) (pending before the Legislature as this bill).]

2 It is an affirmative defense to any criminal action arising under chapter 36 of Title 2C of the New Jersey Statutes for possession of a hypodermic syringe or needle that the item was obtained pursuant to the authority of section 1 of P.L., c. (C. ) (pending before the Legislature as this bill). The affirmative defense established herein 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 act shall be construed
to limit or constrain in any way a prosecution for the possession,
manufacture, or distribution of a controlled dangerous substance or
for any other conduct proscribed by chapter 35 or chapter 36 of
Title 2C of the New Jersey Statutes.  

4. N.J.S.2C:36-6 is repealed.  

5. This act shall take effect on the 180th day after
enactment, except that the Department of Health and Senior
Services, in consultation with the Department of Human Services
and the New Jersey State Board of Pharmacy may take such
anticipatory administrative action in advance as shall be necessary
for the implementation of the act.