

2A: 170-77.3 et seq.

LEGISLATIVE HISTORY CHECKLIST

NJSA 2A:170-77.3 et seq.

Laws of 1975 Chapter 98

Bill No. S 245

Sponsor(s) Dodd

Date Introduced Pre-filed

Committee: Assembly Commerce, Industry & Professions

Senate Law, Public Safety & Defense

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of passage: Assembly January 23, 1975; re-enacted 4/21/75

Senate April 4, 1974; re-enacted 4/10/75

Date of approval May 21, 1975

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto message Yes ~~No~~

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

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SENATE, No. 245

STATE OF NEW JERSEY

By Senator DODD

PRE-FILED FOR INTRODUCTION IN THE 1974 SESSION

AN ACT to amend the title of "An act regulating the sale, offering for sale, having, and possession of, hypodermic syringes or needles or instruments or implements adapted for the use of cocaine and narcotic drugs by subcutaneous injections in certain cases, and supplementing chapter 170 of Title 2A of the New Jersey Statutes, and repealing 'An act regulating the sale, offering for sale, having and possession of hypodermic syringes or needles or instruments or implements adapted for the use of cocaine and narcotic drugs by subcutaneous injections in certain cases, and supplementing chapter 170 of Title 2A of the New Jersey Statutes,' approved May 16, 1952 (P. L. 1952, c. 209)," approved February 21, 1956 (P. L. 1955, c. 277), so that the same shall read "An act regulating the sale, offering for sale, having, and possession of, hypodermic syringes or needles or instruments or implements adapted for the use of controlled dangerous substances by subcutaneous injections in certain cases, and supplementing chapter 170 of Title 2A of the New Jersey Statutes, and repealing P. L. 1952, c. 209," and to amend the body of said act.

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

1 1. The title of P. L. 1955, c. 277 is amended to read as follows:
2 An act regulating the sale, offering for sale, having, and possession
3 of, hypodermic syringes or needles or instruments or implements
4 adapted for the use of **[cocaine and narcotic drugs]** *controlled*
5 *dangerous substances* by subcutaneous injections in certain cases,
6 and supplementing chapter 170 of Title 2A of the New Jersey
7 Statutes, and repealing **[**"An act regulating the sale, offering for
8 sale, having and possession of hypodermic syringes or needles or
9 instruments or implements adapted for the use of cocaine and
10 narcotic drugs by subcutaneous injections in certain cases, and

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

11 supplementing chapter 170 of Title 2A of the New Jersey Statutes,"
 12 approved May 16, 1952, c. 209] *P. L. 1952, c. 209.*

1 2. Section 1 of P. L. 1955, c. 277 (C. 2A:170-77.3) is amended to
 2 read as follows:

3 1. No person shall sell, furnish, or give to any person or persons
 4 other than a duly licensed physician, dentist, veterinarian, under-
 5 taker, nurse, podiatrist, registered pharmacist, or a hospital, sani-
 6 tarium, clinical laboratory or any other medical institution or a
 7 State or governmental agency, or a regular dealer in medical,
 8 dental or surgical supplies, or a resident physician or interne of a
 9 hospital, sanitarium or other medical institution, an instrument
 10 commonly known as a hypodermic syringe, hypodermic needle or
 11 any instrument adapted for the use of [narcotic drugs] *controlled*
 12 *dangerous substances as defined in P. L. 1970, c. 226 (C. 24:21-1*
 13 *et seq.)* by subcutaneous injections without a written prescription
 14 of a duly licensed physician, dentist or veterinarian. Such pre-
 15 scription shall contain the name and address of the patient, the
 16 description of the instrument prescribed and the number of in-
 17 struments prescribed.

1 3. Section 2 of P. L. 1955, c. 277 (C. 2A:170-77.4) is amended to
 2 read as follows:

3 2. Every person who disposes of, or sells, or furnishes, or gives
 4 away a hypodermic syringe or a hypodermic needle or an in-
 5 strument adapted for the use of [narcotic drugs] *controlled*
 6 *dangerous substances* by subcutaneous injections, upon the written
 7 prescription of a duly licensed physician, dentist, or veterinarian,
 8 shall record upon the face of the prescription, over his signature,
 9 the date of the sale or furnishing of the instrument. This prescrip-
 10 tion shall be retained on file for a period of 2 years and shall be
 11 opened to inspection by any public officer or employee **engaged in**
 12 the enforcement of this section. A prescription filed in accordance
 13 with this section shall be sufficient authority, without the necessity
 14 of a renewal or reissuance, to permit subsequent sales or the
 15 furnishing of hypodermic syringes or hypodermic needles or in-
 16 struments adapted for the use of [narcotic drugs] *controlled*
 17 *dangerous substances* by subcutaneous injections to the person to
 18 whom the prescription was issued, for a period of 6 months from
 19 the date of its original issuance.

1 4. Section 3 of P. L. 1955, c. 277 (C. 2A:170-77.5) is amended to
 2 read as follows:

3 3. It shall be unlawful for any person or persons, except a duly
 4 licensed physician, dentist, veterinarian, nurse, podiatrist, hospital,
 5 sanitarium or other medical institution, or a resident physician

6 or interne of a hospital, sanitarium or other medical institution,
7 to have under control or possess, a hypodermic syringe, hypodermic
8 needle or any other instrument adapted for the use of [narcotic
9 drugs] *controlled dangerous substances* by subcutaneous injections
10 [with intent to use such syringe, needle or instrument for such
11 purpose] **with intent to use such syringe, needle or instrument for*
12 *such purpose**, unless such possession be obtained upon a valid
13 written prescription from, and such use be authorized or directed
14 by a duly licensed physician or veterinarian. For the purposes of
15 this subdivision no such prescription shall be valid, which has been
16 outstanding for more than 6 months.

1 5. This act shall take effect immediately.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

March 19, 1975

SENATE BILL NO. 245

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 245, with my objections, for reconsideration.

Present law provides that possession or sale of syringes, needles, instruments or implements adapted for the use of cocaine and narcotic drugs is a disorderly persons offense. S-245 would amend this law by substituting the term "controlled dangerous substances" for "cocaine and narcotic drugs." This nomenclature substitution would make the law governing sale or possession consistent with the present drug law, N.J.S.A. 24:21-1 et seq., which refers to "controlled dangerous substances." The bill also eliminates the requirement of showing that one who possesses such an instrument possesses it with intent to inject a controlled dangerous substance.

I am in general agreement with the purpose of this bill. Narcotics addiction has become a major plague in our society and must be combatted at every turn. When we made possession or sale of the tools of addiction an offense we added a significant tool to our arsenal. By substituting the phrase "controlled dangerous substances" we will widen our attack by recognizing that there are many other dangerous substances, amphetamines and methedrine for example, other than cocaine and narcotic drugs, which can be abused by injection with a hypodermic needle.

However, I question the necessity of eliminating the requirement of existing law that possession be accompanied by "intent to use such syringe, needle or instrument" for the injection of narcotic drugs. Under the criminal law of this State, nearly every criminal prosecution must show that the accused possessed some criminal knowledge, intent, or similar element of mens rea. By eliminating such requirement, this bill in effect imposes strict liability upon anyone found in possession of a hypodermic needle without an accompanying prescription and authorization from a physician or veterinarian. I do not consider the mere fact of possession of such an instrument, without a showing of intent to use the instrument to inject a controlled dangerous substance, sufficient to warrant imposition of criminal liability.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

In view of the above, I return Senate Bill No. 245 for your reconsideration
and recommend the following change:

Page 2, section 4, lines 10-11: Insert "with intent to use such syringe,
needle, or instrument for such purpose"

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Donald Lan

EXECUTIVE SECRETARY TO THE GOVERNOR