

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 188
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas is the only state that expressly forbids syringe exchange programs.

C.S.S.B. 188 authorizes local health authorities to operate or contract with certain organizations to operate a disease control program that authorizes one-for-one syringe exchanges; offers education on the transmission and prevention of communicable diseases; and assists participants in obtaining health-related services, including substance abuse treatment services and bloodborne disease testing. The bill authorizes such programs to charge a fee for the new syringes and sets forth provisions relating to the distribution and handling of such syringes and reporting.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services, as the successor agency to TDH.]

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 81, Health and Safety Code, by adding Subchapter J, as follows:

SUBCHAPTER J. PROGRAMS TO REDUCE RISK OF CERTAIN COMMUNICABLE DISEASES

Sec. 81.401. **DISEASE CONTROL PROGRAMS.** (a) Authorizes a local health authority or an organization that contracts with a county, municipality, hospital district, or other local governmental entity charged with protecting the public health to establish a disease control program (program) that provides for the anonymous exchange of used hypodermic needles and syringes for an equal number of new hypodermic needles and syringes; offers education on the transmission and prevention of communicable diseases, including HIV, hepatitis B, and hepatitis C; and assists program participants in obtaining health-related services, including substance abuse treatment services and blood-borne disease testing.

(b) Authorizes a local health authority or other organization operating the program authorized by this subchapter to charge a participant in the program a fee for each hypodermic needle or syringe used in the program not to exceed 150 percent of the actual cost of the hypodermic needle or syringe.

(c) Requires a local health authority or other organization operating the program authorized by this subchapter to annually provide the Texas Department of Health with information on the effectiveness of the program, the program's impact on reducing the spread of communicable diseases, including HIV, hepatitis B, and hepatitis C, and the program's effect on injected drug use in the area served by the local health authority.

Sec. 81.402. **DISTRIBUTION OF NEEDLES AND SYRINGES TO PROGRAM.**
Authorizes a person licensed as a wholesale drug distributor or device distributor under

Chapter 431 (Texas Food, Drug, and Cosmetic Act) to distribute hypodermic needles and syringes to the program authorized by this subchapter.

Sec. 81.403. HANDLING OF NEEDLES AND SYRINGES. (a) Requires the operator of the program to store hypodermic needles and syringes in a proper and secure manner. Authorizes only authorized employees or volunteers of the program to have access to the hypodermic needles and syringes. Authorizes program clients to obtain hypodermic needles and syringes only from an authorized employee or volunteer.

(b) Requires the operator of the program authorized by this subchapter to store and dispose of used hypodermic needles and syringes in accordance with Texas Board of Health rule.

SECTION 2. Amends Section 481.125, Health and Safety Code, by adding Subsection (g), to provide that it is a defense to prosecution under Subsections (a) and (b) (Offense: Possession or Delivery of Drug Paraphernalia) that the person manufactures hypodermic needles or syringes that are delivered or are to be delivered through the program established under Subchapter J, Chapter 81; or the person uses, possesses, or delivers hypodermic needles or syringes that are delivered or are to be delivered through the program established under Subchapter J, Chapter 81; and presents evidence showing that the person is an employee, volunteer, or participant of the program.

SECTION 3. Sets forth the purpose of this Act.

SECTION 4. Makes application of Section 481.125, Health and Safety Code, as amended by this Act, prospective.

SECTION 5. Effective date: September 1, 2009.