
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2364 Session of
2020

INTRODUCED BY DONATUCCI, MARCH 13, 2020

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 13, 2020

AN ACT

1 Amending the act of April 14, 1972 (P.L.233, No.64), entitled
2 "An act relating to the manufacture, sale and possession of
3 controlled substances, other drugs, devices and cosmetics;
4 conferring powers on the courts and the secretary and
5 Department of Health, and a newly created Pennsylvania Drug,
6 Device and Cosmetic Board; establishing schedules of
7 controlled substances; providing penalties; requiring
8 registration of persons engaged in the drug trade and for the
9 revocation or suspension of certain licenses and
10 registrations; and repealing an act," further providing for
11 prohibited acts and penalties and for effect on local
12 ordinances.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 13(a) of the act of April 14, 1972
16 (P.L.233, No.64), known as The Controlled Substance, Drug,
17 Device and Cosmetic Act, is amended by adding a clause and the
18 section is amended by adding a subsection to read:

19 Section 13. Prohibited Acts; Penalties.--(a) The following
20 acts and the causing thereof within the Commonwealth are hereby
21 prohibited:

22 * * *

23 (41) The operation of a clinic or establishment, not

1 otherwise authorized by law or by local ordinance pursuant to
2 section 41.1(b), that provides drug paraphernalia and space for
3 any person to inject, ingest, inhale or otherwise introduce into
4 the person's body a controlled substance in violation of this
5 act.

6 * * *

7 (g) Any person who wilfully violates subsection (a) (41)
8 shall be subject to a civil penalty of not more than the greater
9 of two hundred fifty thousand dollars (\$250,000). In addition to
10 the civil penalty under this subsection, the following shall
11 apply:

12 (1) A physician, as defined in section 2 of the act of
13 October 5, 1978 (P.L.1109, No.261), known as the "Osteopathic
14 Medical Practice Act," who willfully violates subsection (a)
15 (41), shall be guilty of unprofessional conduct and the
16 physician's license for the practice of medicine may be subject
17 to suspension or revocation in accordance with procedures under
18 the "Osteopathic Medical Practice Act," or the act of December
19 20, 1985 (P.L.457, No.112), known as the "Medical Practice Act
20 of 1985."

21 (2) A health care practitioner, as defined in section 103 of
22 the act of July 19, 1979 (P.L.130, No.48), known as the "Health
23 Care Facilities Act," who willfully violates subsection (a) (41),
24 may be subject to review and disciplinary action under the
25 licensure, certification, registration or permit provisions of
26 law and regulation governing the respective health care
27 practitioner.

28 Section 2. Section 41.1 of the act is amended to read:

29 Section 41.1. Effect on Local Ordinances.--(a) Nothing in
30 this act relating to drug paraphernalia shall be deemed to

1 supersede or invalidate any consistent local ordinance,
2 including zoning and nuisance ordinances, relating to the
3 possession, sale or use of drug paraphernalia.

4 (b) The governing body of a municipality shall have the
5 option to authorize by ordinance or resolution the operation of
6 an individual clinic or establishment in the municipality that
7 provides drug paraphernalia and space for any person to inject,
8 ingest, inhale or otherwise introduce into the person's body a
9 controlled substance for the purpose of reducing the spread of
10 disease and overdose-related deaths and providing information
11 related to treatment services for drug dependency or drug abuse.
12 The ordinance must provide for, at a minimum, the following
13 requirements for the operation of the clinic or establishment:

14 (1) At least three public input hearings within the
15 municipality prior to the municipality's approval of the
16 operator of the clinic or establishment. The notice of the
17 meetings to the public shall be sufficient to ensure adequate
18 participation in the meeting by the public. Notice of all
19 meetings shall be in accordance with all State laws and local
20 ordinances, as local officials deem appropriate. When the
21 proposed location of the clinic or establishment is within a
22 city of the first class, at least one public meeting must be
23 held within a one-mile radius of the proposed location site.

24 (2) Observation by appropriate medical professionals of each
25 person using the clinic or establishment to inject, ingest,
26 inhale or otherwise introduce into the person's body a
27 controlled substance in order to reduce the spread of disease
28 associated with drug paraphernalia, intervene with medical care
29 if necessary and prevent fatal overdose.

30 (3) A proactive and comprehensive community safety plan

1 developed in cooperation with local law enforcement, the
2 Pennsylvania State Police, or both.

3 (4) A policy for informing local government officials and
4 neighbors about the clinic or establishment's complaint
5 procedures, and the contact number of the director, manager or
6 operator of the clinic or establishment.

7 Section 3. This act shall take effect in 60 days.