

Bill No. 7893 Committee Substitute

Introduced in Council:

January 19, 2021

Introduced by:

**Sam Minardi, Adam Knauff, Pat Jones
Shannon Snodgrass, Bruce King,
Deanna McKinney, Jennifer Pharr,
Jeanine Faegre and Chuck Overstreet**

Adopted by Council:

Referred to:

Public Safety

1 **Bill No. 7893 Committee Substitute** - A BILL to amend and reenact Sections 78-381,
2 78-382, and 78-383 of the Municipal Code of the City of Charleston and to repeal
3 Sections 78-396 and 78-397 of said Code, all relating to requiring any distribution of
4 hypodermic needles within the City of Charleston to be performed by persons or entities
5 that have a certification as a Harm Reduction Program from the State of West Virginia
6 in addition to any required state license; **creating certain requirements for Harm**
7 **Reduction Programs operating within the City;** eliminating the ability for the Chief of
8 Police to provide exceptions, and establishing penalties for violations.
9

10 **Now, therefore, be it ordained by the Council of the City of Charleston:**

11

12 That Sections 78-381, 78-382, and 78-383 of the Municipal Code of the City of
13 Charleston is amended and reenacted, and that Sections 78-396 and 78-397 of said
14 Code are repealed, all to read as follows:

15

16 **Subdivision II. - ~~Sale, Marketing, and Distribution~~ of Hypodermic Needles and**
17 **Syringes**

18

19 **Sec. 78-381. - ~~Sale, marketing and distribution~~ Distribution of hypodermic**
20 **needles; state license certification required.**

21

22 It shall be unlawful for any person or persons as principal, clerk, agent, ~~or~~ servant or
23 otherwise acting individually or on behalf of any entity, organization or group to sell,
24 market, or distribute any hypodermic syringes, needles and other similar objects used
25 or designed for injecting substances into the human body, without obtaining and having
26 certification as a Harm Reduction Program from the West Virginia Bureau for Public
27 Health within the West Virginia Department of Health and Human Resources and any
28 and all licenses required under state law to do so; except that, items distributed by or
29 exchanged at a needle exchange program sponsored or approved by the Chief of
30 Police of the Charleston Police Department, as provided by Subdivision III herein, are
31 thereby approved and are not unlawful.

32

33 **Sec. 78-382. - Compliance with state law and regulations.**

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35 Every person, entity, organization, or group certified or licensed to sell, market, or
36 distribute hypodermic needles shall comply with all applicable state law and regulations.

37 In addition, every Harm Reduction Program operating within the City of Charleston shall
38 (1) receive one returned syringe for every syringe it distributes; (2) maintain a
39 confidential list of the number of syringes dispensed and returned by the program
40 participant for every visit; (3) individually mark each syringe it dispenses with identifying
41 information that clearly and unambiguously allows for the identification of each syringe
42 dispensed by the program that dispensed it; and (4) document at every visit that each
43 participant was offered medical services, including mental, behavioral health, and drug
44 treatment services, by a licensed or certified health care provider.

45

46 **~~Subdivision III. - Needle Exchange Program~~**

47

48 **Sec. 78-383. - Penalty.**

49 Any person violating any provision of this subdivision shall, if convicted, be guilty of a
50 misdemeanor and be fined not less than five hundred ~~ten~~ dollars nor more than one
51 thousand ~~five hundred~~ dollars for the first offense and succeeding offenses. Each day
52 that such violation shall continue shall be deemed a separate and distinct offense.

53

54 **~~Sec. 78-396. - Needle exchange program authorized.~~**

55

56 ~~The City of Charleston, by and through its Chief of Police, may sponsor, approve, or~~
57 ~~participate in a program or programs within the City of Charleston for the distribution or~~
58 ~~exchange of hypodermic syringes, needles and other similar objects used or designed~~
59 ~~for injecting substances into the human body.~~

60

61 **~~Sec. 78-397. - Rules and regulations; Chief of Police authorized.~~**

62

63 ~~The Chief of Police of the City of Charleston Police Department is authorized to~~
64 ~~promulgate reasonable rules or regulations deemed necessary to implement and~~
65 ~~administer a program within the City of Charleston provided for in Section 78-396 for~~
66 ~~the distribution or exchange of hypodermic syringes, needles and other similar objects~~
67 ~~used or designed for injecting substances into the human body.~~