

CHIEF OF DETECTIVES

NOTICE

December 18, 2024

8.4

TO: All Sworn Personnel

FROM: Chief of Detectives

SUBJECT: ASSEMBLY BILL 2136 – CONTROLLED SUBSTANCES: ANALYZING AND TESTING

The purpose of this Notice is to give officers guidance on California Assembly Bill (AB) 2136, which introduces key provisions affecting Health and Safety (HS) Code Sections 11304, 11305, 11364(c), and 11364(d). The legislation supports harm reduction by allowing the safe testing of drugs for fentanyl, establishing protections for individuals seeking testing services, and creating limited carve-outs for drug paraphernalia possession.

Assembly Bill 2136 **does not** amend HS 11364(a), which criminalizes the possession of devices used to smoke controlled substances, including crack (cocaine base) and cannabis (THC), as defined by HS 11054(f)(1) and HS 11054(d)(20). The possession of pipes associated with crack and marijuana remains illegal unless related to safe disposal or harm reduction per the provisions specified in HS 11364(c).

Exemptions from Enforcement at Fentanyl Testing Facilities (HS 11304 & 11305):

- Individuals possessing a controlled substance or a controlled analog while entering or exiting a fentanyl testing facility for drug testing are protected from arrest, search, or detention based solely on their presence at the facility.
- Officers shall refrain from conducting arrests, detentions, or searches based solely on the fact individuals are entering the testing facilities. Department personnel should be advised that the primary intent of these facilities is harm reduction by encouraging individuals to test drugs for fentanyl presence without fear of prosecution.

Paraphernalia Carve-Out at Fentanyl Testing Facilities (HS 11364(c)):

- Possession of drug paraphernalia, including crack and marijuana pipes, by individuals at fentanyl testing sites is temporarily decriminalized to encourage participation in drug testing services.

Note: Paraphernalia possession within these facilities is exempt from enforcement actions.

Statewide Exemption for Hypodermic Needles (HS 11364(d)):

- The possession of hypodermic needles for personal use is decriminalized from January 1, 2025, through January 1, 2026, throughout the state, expanding the scope of paraphernalia exemptions beyond fentanyl testing locations.
- Officers shall refrain from any enforcement of possession of hypodermic needles from January 1, 2025, through January 1, 2026.
- While possession of a clean hypodermic needle is exempt from enforcement for harm reduction purposes, this protection **does not extend to the possession or use of illegal drugs** like cocaine, heroin, or other controlled substances.
- If a hypodermic needle contains illegal substances or residue, law enforcement can enforce controlled substance laws with the exception of participation in drug testing services.

Exemptions for Drug Testing, Disposal, and Needle Exchange Facilities (General Facility Provisions):

- Assembly Bill 2136 specifies drug testing, disposal, and needle exchange sites may legally maintain stocks of needles and testing equipment and are protected from criminal liability related to possession of these items.
- Officers should be reminded that staff at these facilities, as well as the drugs and paraphernalia surrendered by participants, are protected from enforcement actions.

Exception: Individuals using the above services to facilitate illegal activities unrelated to harm reduction within any of the above facilities are not protected from law enforcement action and may be detained and/or arrested.

Should you have any questions regarding this Notice, please contact Detective Michael Boylls, Cannabis Support Unit, Gang and Narcotics Division at (213) 486-0830.

APPROVED:



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