

26 Section 1. Section **58-37a-5** is amended to read:

27 **58-37a-5. Unlawful acts.**

28 (1) (a) It is unlawful for [~~any~~] a person to use, or to possess with intent to use, drug  
29 paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
30 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,  
31 inhale or otherwise introduce a controlled substance into the human body in violation of this  
32 chapter.

33 (b) [~~Any~~] A person who violates Subsection (1)(a) is guilty of a class B misdemeanor.

34 (2) (a) It is unlawful for [~~any~~] a person to deliver, possess with intent to deliver, or  
35 manufacture with intent to deliver, any drug paraphernalia, knowing that the drug paraphernalia  
36 will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
37 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,  
38 inhale, or otherwise introduce a controlled substance into the human body in violation of this  
39 act.

40 (b) [~~Any~~] A person who violates Subsection (2)(a) is guilty of a class A misdemeanor.

41 (3) [~~Any~~] A person 18 years [~~of age~~] old or older who delivers drug paraphernalia to a  
42 person younger than 18 years [~~of age~~] old and who is three years or more younger than the  
43 person making the delivery is guilty of a third degree felony.

44 (4) (a) It is unlawful for [~~any~~] a person to place in this state in [~~any~~] a newspaper,  
45 magazine, handbill, or other publication [~~any~~] an advertisement, knowing that the purpose of  
46 the advertisement is to promote the sale of drug paraphernalia.

47 (b) [~~Any~~] A person who violates Subsection (4)(a) is guilty of a class B misdemeanor.

48 (5) (a) A person may not be charged with distribution of hypodermic syringes as drug  
49 paraphernalia if at the time of sale or distribution the syringes are in a sealed sterile package  
50 and are for a legitimate medical purpose, including:

51 (i) injection of prescription medications as prescribed by a practitioner; or

52 (ii) the prevention of disease transmission.

53 (b) A person may not be charged with possession of a hypodermic [~~syringes~~] syringe as  
54 drug paraphernalia if the syringe is unused and is in a sealed sterile package.

55 (6) In a prosecution under Subsection (1) for possession of a hypodermic syringe or  
56 needle, the prosecutor or the court ~~shall~~ may ~~dismiss the charge if the person establishes,~~  
56a by a

57 preponderance of the evidence, that:

58 (a) at the time of the offense:

59 (i) the hypodermic syringe or needle was stored in a sealed puncture-resistant  
60 container, such as a medical sharps disposal container, that was clearly marked on the outside  
61 of the container with a warning that identified the container as containing medical waste; and

62 (ii) the person was enrolled or participating in a syringe exchange program under  
63 Section 26B-7-117; and

64 (b) after the day of the offense, but before the day on which the case is adjudicated, the  
65 person demonstrated an intent to engage with substance abuse treatment by ~~H~~→ [:

66 ~~—— (i) completing a substance use disorder screening;~~

67 ~~—— (ii) completing an educational program focused on substance use disorder treatment; or~~

68 ~~—— (iii) enrolling;] ←~~H~~ commencing, ~~H~~→ [or] ←~~H~~ continuing ~~H~~→ , or completing [to~~

68a ~~participate in] ←~~H~~ a substance use disorder~~  
69 ~~treatment program.~~

70 [(6)] (7) A person may be charged and sentenced for a violation of this section,  
71 notwithstanding a charge and sentence for a violation of any other section of this chapter.

72 Section 2. **Effective date.**

73 This bill takes effect on May 1, 2024.