

FIRST REGULAR SESSION

# HOUSE BILL NO. 973

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BURTON.

0636H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 579.040 and 579.076, RSMo, and to enact in lieu thereof three new sections relating to fentanyl testing strips.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 579.040 and 579.076, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 191.1014, 579.040, and 579.076, to read as follows:

**191.1014. 1. The department of health and senior services shall establish a registration process for entities desiring to operate a program that distributes fentanyl testing strips in order to reduce drug overdoses and overdose deaths whereby any entity that would like to operate such a program shall be allowed to do so if it meets requirements set by the department of health and senior services.**

**2. No entity registered with the department of health and senior services under subsection 1 of this section shall be present within five hundred feet of any school building unless the school building was constructed or established as a school after the entity was in operation.**

**3. The department of health and senior services shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

17 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**  
18 **proposed or adopted after August 28, 2023, shall be invalid and void.**

579.040. 1. (1) A person commits the offense of unlawful distribution, delivery, or  
2 sale of drug paraphernalia if he or she unlawfully distributes, delivers, or sells, or possesses  
3 with intent to distribute, deliver, or sell drug paraphernalia knowing, or under circumstances  
4 in which one reasonably should know, that it will be used to plant, propagate, cultivate, grow,  
5 harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack,  
6 repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human  
7 body a controlled substance or an imitation controlled substance in violation of this chapter.

8 (2) **The following entities and persons shall be exempt from the provisions of this**  
9 **section:**

10 (a) **Any entity registered with the department of health and senior services**  
11 **under section 191.1014 that possesses, distributes, or delivers fentanyl testing strips for**  
12 **the purpose of operating a program described under section 191.1014; and**

13 (b) **Any staff member, volunteer, or participant in a program described under**  
14 **section 191.1014 that is operated by an entity described under paragraph (a) of this**  
15 **subdivision who possesses, distributes, or delivers fentanyl testing strips in connection**  
16 **with his or her duties or participation in the program.**

17 2. The offense of unlawful delivery of drug paraphernalia is a class A misdemeanor,  
18 unless done for commercial purposes, in which case it is a class E felony.

579.076. 1. (1) A person commits the offense of unlawful manufacture of drug  
2 paraphernalia if he or she unlawfully manufactures with intent to deliver drug paraphernalia,  
3 knowing, or under circumstances where one reasonably should know, that it will be used to  
4 plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process,  
5 prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise  
6 introduce into the human body a controlled substance or an imitation controlled substance in  
7 violation of this chapter or chapter 195.

8 (2) **The following entities and persons shall be exempt from the provisions of this**  
9 **section:**

10 (a) **Any entity registered with the department of health and senior services**  
11 **under section 191.1014 that delivers or manufactures fentanyl testing strips for the**  
12 **purpose of operating a program described under section 191.1014; and**

13 (b) **Any staff member, volunteer, or participant in a program described under**  
14 **section 191.1014 that is operated by an entity described under paragraph (a) of this**  
15 **subdivision who delivers or manufactures fentanyl testing strips in connection with his**  
16 **or her duties or participation in the program.**

17           2. The offense of unlawful manufacture of drug paraphernalia is a class A  
18 misdemeanor, unless done for commercial purposes, in which case it is a class E felony.

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