



Drug Testing Services & Equipment in Massachusetts: Frequently Asked Questions

In 2024, the Massachusetts legislature amended the Massachusetts Controlled Substances Act to expand access to life-saving tools for overdose prevention. Specifically, [Section 7 of Chapter 285 of the Acts of 2024](#) creates protections for individuals who bring controlled substances they intend to use to be tested for chemicals, toxic substances, or hazardous compounds, and harm reduction service providers who offer those drug testing services.

The law does this by defining the terms “**drug testing services**” and “**testing equipment**,” establishing the ability of harm reduction services and affiliated service providers to supply drug testing services, and creating legal protections for people operating on behalf of harm reduction services and for people who use drug testing services. See below for additional information on this new law.

Drug Testing Services	Drug Testing Equipment
<i>“The use of testing equipment to identify or analyze the strength, effectiveness or purity of a controlled substance to determine whether the controlled substance contains chemicals, toxic substances or hazardous compounds prior to its injection, inhalation or ingestion by another person”</i>	<i>“including, but not limited to: fentanyl test strips, colorimetric reagents, high-performance liquid chromatography, gas chromatography and mass spectrometry”</i>

1. Who does this law protect?

The law explicitly provides protection to both the provider and user of drug testing services as long as they are acting in good faith.

As described in more detail below, if a person is acting in good faith when using or providing drug testing equipment, they are protected from criminal charges for unlawful possession of a controlled substance and conspiracy to violate the Massachusetts Controlled Substances Act. They are also protected from state civil penalties for possession of marijuana in amounts under two ounces. They are not protected from laws prohibiting the sale or distribution of controlled substances.

The law provides additional protection for providers of drug testing services by further protecting them from “any criminal or civil liability or any professional disciplinary action” for actions related to the provision of drug testing services. The law does not protect the provider if they are acting with gross negligence or willful or wanton misconduct—a very

high standard of reckless behavior or behavior that reflects a clear disregard for the safety of others.

2. *Can drug testing happen anywhere as long as it is part of a harm reduction services program?*

Yes. The new law applies to all of Massachusetts and does not prescribe a geographic or setting-based limitation.

3. *Does it matter where the harm reduction services are located, provided or housed?*

The law specifically provides protections to employees, volunteers, and third-party contractors of an entity providing harm reduction services regardless of the program, event, or physical location where the services are provided. For example, all of the following contexts would be protected under the law:

- Community Health Center
- Pop Up Event
- Night Club
- Concert
- Festival
- Street Outreach Program

4. *Sample collection is often done during outreach or mobile van services and brought back to the harm reduction program for testing. Are staff/volunteers protected if they are transporting samples back to a harm reduction program to be tested? Does the law provide any protections for someone transporting materials/substances for testing to a harm reduction program?*

Transporting samples of drug residue or debris is an essential component of providing drug testing services. Such services aid in identifying the makeup of substances and allow for safer use practices and a more informed public health response.

The law provides protections against professional, civil, or criminal charges for unlawful possession of a controlled substance or conspiracy to violate the Massachusetts Controlled Substances Act for people who are providing drug testing services. The law does not protect against gross negligence or willful or wanton misconduct. In other words, reckless behavior or a clear disregard for the safety of others is not protected under this law.

For people who are transporting substances to be tested for personal use there are limited protections against unlawful possession of controlled substances while on the premises where the drug checking services are conducted. See below for more detail, and contact your [local harm reduction organization](#) or [syringe services program](#) to learn about the availability of drug checking services including drop-off drug checking kits, delivery services, and other supports near you.

5. Does the law say anything about the amount of drug testing equipment that may be onsite at a harm reduction program?

No. The law does not limit the amount of drug testing equipment onsite at a harm reduction program.

6. Does the law protect individuals who have received fentanyl test strips from a harm reduction program and have them on their person outside of the harm reduction program?

The law provides limited protection against criminal charges for unlawful possession of a controlled substance or conspiracy to violate the Massachusetts Controlled Substances Act while someone is “on the premises where the drug checking services are conducted.” It also provides protection from charges and prosecution for civil penalties for possession of marijuana in amounts under two ounces. Additionally, fentanyl test strips are legal to possess in Massachusetts as long as there is no intent to sell the strips. Thus, a person who receives fentanyl test strips from a harm reduction program cannot be charged with a criminal or civil offense for possessing them outside the program.