

4515

2013-2014 Regular Sessions

I N S E N A T E

April 5, 2013

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to use of epinephrine auto-injector devices in schools and authorizing the use of glucagon for emergency injection kits

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 2 of section 3000-a of the public health law,
2 as amended by chapter 243 of the laws of 2010, is amended to read as
3 follows:
4 2. (i) Any person who, or entity, partnership, corporation, firm or
5 society that, purchases, operates, facilitates implementation or makes
6 available resuscitation equipment that facilitates first aid, an auto-
7 mated external defibrillator [or], an epinephrine auto-injector device
8 OR A GLUCAGON EMERGENCY INJECTION KIT as required by or pursuant to law
9 or local law, or (ii) an emergency health care provider under a collabora-
10 tive agreement pursuant to section three thousand-b of this article
11 with respect to an automated external defibrillator, or (iii) the emer-
12 gency health care provider with a collaborative agreement under section
13 three thousand-c of this article with respect to use of an epinephrine
14 auto-injector device, OR (IV) THE EMERGENCY HEALTH CARE PROVIDER WITH A
15 COLLABORATIVE AGREEMENT UNDER SECTION THREE THOUSAND-E OF THIS ARTICLE
16 WITH RESPECT TO USE OF A GLUCAGON EMERGENCY INJECTION KIT, shall not be
17 liable for damages arising either from the use of that equipment by a
18 person who voluntarily and without expectation of monetary compensation
19 renders first aid or emergency treatment at the scene of an accident or
20 medical emergency, or from the use of defectively manufactured equip-
21 ment; provided that this subdivision shall not limit the person's or
22 entity's, partnership's, corporation's, firm's, society's or the emer-
23 gency health care provider's liability for his, her or its own negli-
24 gence, gross negligence or intentional misconduct.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 S 2. Paragraph (a) of subdivision 1 of section 3000-c of the public
2 health law, as amended by chapter 350 of the laws of 2001, is amended to
3 read as follows:

4 (a) "Eligible person, firm, organization, or other entity" means, (i)
5 an ambulance service or advanced life support first response service; a
6 certified first responder, emergency medical technician, or advanced
7 emergency medical technician, who is employed by or an enrolled member
8 of any such service; (ii) a children's overnight camp as defined in
9 subdivision one of section thirteen hundred ninety-two of this chapter,
10 a summer day camp as defined in subdivision two of section thirteen
11 hundred ninety-two of this chapter, a traveling summer day camp as
12 defined in subdivision three of section thirteen hundred ninety-two of
13 this chapter or a person employed by such a camp; [or] (iii) any other
14 person, firm, organization or entity designated pursuant to regulations
15 of the commissioner in consultation with other appropriate agencies; OR
16 (IV) A SCHOOL DISTRICT OR ANY PERSON EMPLOYED BY A SCHOOL DISTRICT WHO
17 IS DESIGNATED AS SUCH; and all subject to regulations of the commission-
18 er.

19 S 3. Subdivision 3 of section 3000-c of the public health law is
20 amended by adding a new paragraph (d) to read as follows:

21 (D) EVERY SCHOOL DISTRICT THAT DESIGNATES ANY PERSON OR PERSONS AS AN
22 ELIGIBLE PERSON SHALL IMMEDIATELY NOTIFY THE COMMISSIONER OF EDUCATION
23 AND ENSURE THAT ALL SUCH PERSONS IMMEDIATELY SUCCESSFULLY COMPLETE THE
24 TRAINING REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION.

25 S 4. The public health law is amended by adding a new section 3000-e
26 to read as follows:

27 S 3000-E. GLUCAGON EMERGENCY INJECTION KITS. 1. DEFINITIONS. AS USED
28 IN THIS SECTION:

29 (A) "ELIGIBLE PERSON, FIRM, ORGANIZATION, OR OTHER ENTITY" MEANS, (I)
30 AN AMBULANCE SERVICE OR ADVANCED LIFE SUPPORT FIRST RESPONSE SERVICE; A
31 CERTIFIED FIRST RESPONDER, EMERGENCY MEDICAL TECHNICIAN, OR ADVANCED
32 EMERGENCY MEDICAL TECHNICIAN, WHO IS EMPLOYED BY OR AN ENROLLED MEMBER
33 OF ANY SUCH SERVICE; (II) A CHILDREN'S OVERNIGHT CAMP AS DEFINED IN
34 SUBDIVISION ONE OF SECTION THIRTEEN HUNDRED NINETY-TWO OF THIS CHAPTER,
35 A SUMMER DAY CAMP AS DEFINED IN SUBDIVISION TWO OF SECTION THIRTEEN
36 HUNDRED NINETY-TWO OF THIS CHAPTER, A TRAVELING SUMMER DAY CAMP AS
37 DEFINED IN SUBDIVISION THREE OF SECTION THIRTEEN HUNDRED NINETY-TWO OF
38 THIS CHAPTER OR A PERSON EMPLOYED BY SUCH A CAMP; (III) ANY OTHER
39 PERSON, FIRM, ORGANIZATION OR ENTITY DESIGNATED PURSUANT TO REGULATIONS
40 OF THE COMMISSIONER IN CONSULTATION WITH OTHER APPROPRIATE AGENCIES; OR
41 (IV) A SCHOOL DISTRICT OR ANY PERSON EMPLOYED BY A SCHOOL DISTRICT WHO
42 IS DESIGNATED AS SUCH; AND ALL SUBJECT TO REGULATIONS OF THE COMMISSION-
43 ER.

44 (B) "EMERGENCY HEALTH CARE PROVIDER" MEANS (I) A PHYSICIAN WITH KNOW-
45 LEDGE AND EXPERIENCE IN THE DELIVERY OF EMERGENCY CARE; OR (II) A HOSPI-
46 TAL LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER THAT PROVIDES
47 EMERGENCY CARE.

48 2. COLLABORATIVE AGREEMENT. ANY ELIGIBLE PERSON, FIRM, ORGANIZATION OR
49 OTHER ENTITY MAY PURCHASE, ACQUIRE, POSSESS AND USE GLUCAGON FOR EMER-
50 GENCY INJECTION KITS PURSUANT TO A COLLABORATIVE AGREEMENT WITH AN EMER-
51 GENCY HEALTH CARE PROVIDER. THE COLLABORATIVE AGREEMENT SHALL INCLUDE A
52 WRITTEN AGREEMENT THAT INCORPORATES WRITTEN PRACTICE PROTOCOLS, AND
53 POLICIES AND PROCEDURES THAT SHALL ENSURE COMPLIANCE WITH THE PROVISIONS
54 OF THIS SECTION. THE PERSON, FIRM, ORGANIZATION OR ENTITY SHALL FILE A
55 COPY OF THE COLLABORATIVE AGREEMENT WITH THE DEPARTMENT AND WITH APPRO-

1 PRIATE REGIONAL COUNCIL PRIOR TO USING ANY GLUCAGON FOR EMERGENCY
2 INJECTION KITS.

3 3. POSSESSION AND USE OF GLUCAGON EMERGENCY INJECTION KITS. POSSESSION
4 AND USE OF GLUCAGON EMERGENCY INJECTION KITS SHALL BE LIMITED AS
5 FOLLOWS:

6 (A) NO PERSON SHALL USE A GLUCAGON EMERGENCY INJECTION KIT UNLESS SUCH
7 PERSON SHALL HAVE SUCCESSFULLY COMPLETED A TRAINING COURSE IN THE USE OF
8 GLUCAGON EMERGENCY INJECTION KITS APPROVED BY THE COMMISSIONER PURSUANT
9 TO THE RULES OF THE DEPARTMENT. THIS SECTION SHALL NOT BE DEEMED TO
10 PROHIBIT THE USE OF A GLUCAGON EMERGENCY INJECTION KIT (I) BY A HEALTH
11 CARE PRACTITIONER LICENSED OR CERTIFIED UNDER TITLE EIGHT OF THE EDUCA-
12 TION LAW ACTING WITHIN THE SCOPE OF HIS OR HER PRACTICE, OR (II) BY A
13 PERSON ACTING PURSUANT TO A LAWFUL PRESCRIPTION.

14 (B) EVERY PERSON, FIRM, ORGANIZATION AND ENTITY AUTHORIZED TO POSSESS
15 AND USE GLUCAGON EMERGENCY INJECTION KITS PURSUANT TO THIS SECTION SHALL
16 USE, MAINTAIN AND DISPOSE OF SUCH KITS PURSUANT TO REGULATIONS OF THE
17 DEPARTMENT.

18 (C) EVERY USE OF A GLUCAGON EMERGENCY INJECTION KIT PURSUANT TO THIS
19 SECTION SHALL IMMEDIATELY BE REPORTED TO THE EMERGENCY HEALTH CARE
20 PROVIDER.

21 (D) EVERY SCHOOL DISTRICT THAT DESIGNATES ANY PERSON OR PERSONS AS AN
22 ELIGIBLE PERSON SHALL IMMEDIATELY NOTIFY THE COMMISSIONER OF EDUCATION
23 AND ENSURE THAT ALL PERSONS IMMEDIATELY SUCCESSFULLY COMPLETE THE TRAIN-
24 ING REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION.

25 4. APPLICATION OF OTHER LAWS. (A) USE OF A GLUCAGON EMERGENCY
26 INJECTION KIT PURSUANT TO THIS SECTION SHALL BE CONSIDERED FIRST AID OR
27 EMERGENCY TREATMENT FOR THE PURPOSE OF ANY STATUTE RELATING TO LIABIL-
28 ITY.

29 (B) PURCHASE, ACQUISITION, POSSESSION OR USE OF A GLUCAGON EMERGENCY
30 INJECTION KIT PURSUANT TO THIS SECTION SHALL NOT CONSTITUTE THE UNLAWFUL
31 PRACTICE OF A PROFESSION OR OTHER VIOLATION UNDER TITLE EIGHT OF THE
32 EDUCATION LAW OR ARTICLE THIRTY-THREE OF THIS CHAPTER.

33 (C) ANY PERSON OTHERWISE AUTHORIZED TO SELL OR PROVIDE A GLUCAGON FOR
34 EMERGENCY INJECTION KIT MAY SELL OR PROVIDE IT TO A PERSON AUTHORIZED TO
35 POSSESS IT PURSUANT TO THIS SECTION.

36 S 5. This act shall take effect immediately.