S T A T E O F N E W Y O R K

4935--A

2015-2016 Regular Sessions

I N S E N A T E

April 24, 2015

Introduced by Sen. RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to authorizing emergency allergy treatment

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

Section 1. This act shall be known and may be cited as the "Emergency Allergy Treatment Act."

S 2. The public health law is amended by adding a new article 30-D to read as follows:

ARTICLE 30-D

EMERGENCY ALLERGY TREATMENT

SECTION 3080. DEFINITIONS.
3081. EMERGENCY ALLERGY TREATMENT.
3082. EPINEPHRINE AUTO-INJECTORS; EMERGENCY ADMINISTRATION.
3083. LIABILITY.

S 3080. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE:

1. "ADMINISTER" MEANS TO DIRECTLY APPLY AN EPINEPHRINE AUTO-INJECTOR TO THE BODY OF AN INDIVIDUAL.

2. "AUTHORIZED ENTITY" MEANS AN ENTITY OR ORGANIZATION AT OR IN CONNECTION WITH WHICH ALLERGENS CAPABLE OF CAUSING A SEVERE ALLERGIC REACTION MAY BE PRESENT. THE TERM INCLUDES, BUT IS NOT LIMITED TO, RESTAURANTS, RECREATION CAMPS, YOUTH SPORTS LEAGUES, THEME PARKS AND RESORTS, ENTERTAINMENT VENUES AND SPORTS ARENAS.

3. "AUTHORIZED HEALTH CARE PRACTITIONER" MEANS A LICENSED PRACTITIONER AUTHORIZED BY THE LAWS OF THE STATE TO PRESCRIBE DRUGS.

4. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH.

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

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5. "EPINEPHRINE AUTO-INJECTOR" MEANS A SINGLE-USE DEVICE USED FOR THE AUTOMATIC INJECTION OF A PREMEASURED DOSE OF EPINEPHRINE INTO THE HUMAN BODY.

6. "SELF-ADMINISTRATION" MEANS AN INDIVIDUAL'S DISCRETIONARY ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR ON HERSELF OR HIMSELF.

S 3081. EMERGENCY ALLERGY TREATMENT. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THIS SECTION ALLOWS FOR THE CERTIFICATION OF PERSONS TO ADMINISTER LIFESAVING TREATMENT TO INDIVIDUALS WHO HAVE SEVERE ALLERGIC REACTIONS WHEN A PHYSICIAN IS NOT IMMEDIATELY AVAILABLE.

2. THE DEPARTMENT MAY:

(A) ADOPT RULES NECESSARY TO ADMINISTER THE PROVISIONS OF THIS ARTICLE.

(B) CONDUCT EDUCATIONAL TRAINING PROGRAMS AS DESCRIBED IN SUBDIVISION THREE OF THIS SECTION AND APPROVE PROGRAMS CONDUCTED BY OTHER ORGANIZATIONS OR GOVERNMENTAL AGENCIES.

(C) ISSUE AND RENEW CERTIFICATES OF TRAINING TO PERSONS WHO HAVE COMPLIED WITH THIS SECTION AND THE RULES ADOPTED BY THE DEPARTMENT.

(D) COLLECT FEES NECESSARY TO ADMINISTER THE PROVISIONS OF THIS ARTICLE.

3. EDUCATIONAL TRAINING PROGRAMS REQUIRED BY THIS SECTION SHALL BE CONDUCTED BY A NATIONALLY RECOGNIZED ORGANIZATION EXPERIENCED IN TRAINING LAYPERSONS IN EMERGENCY HEALTH TREATMENT OR AN ENTITY OR INDIVIDUAL APPROVED BY THE DEPARTMENT. THE CURRICULUM MUST INCLUDE AT A MINIMUM:

(A) RECOGNITION OF THE SYMPTOMS OF SYSTEMIC REACTIONS TO FOOD, INSECT STINGS, AND OTHER ALLERGENS; AND

(B) THE PROPER ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR.

4. A CERTIFICATE OF TRAINING MAY BE GIVEN TO A PERSON WHO:

(A) IS EIGHTEEN YEARS OF AGE OR OLDER;

(B) HAS, OR REASONABLY EXPECTS TO HAVE, RESPONSIBILITY FOR OR CONTACT WITH AT LEAST ONE OTHER PERSON AS A RESULT OF HIS OR HER OCCUPATIONAL OR VOLUNTEER STATUS, INCLUDING, BUT NOT LIMITED TO, A CAMP COUNSELOR, SCOUT LEADER, FOREST RANGER, TOUR GUIDE, MANAGER, WAIT STAFF OR CHAPERONE; AND

(C) HAS SUCCESSFULLY COMPLETED AN EDUCATIONAL TRAINING PROGRAM AS DESCRIBED IN SUBDIVISION THREE OF THIS SECTION.

5. A PERSON WHO SUCCESSFULLY COMPLETES AN EDUCATIONAL TRAINING PROGRAM MAY OBTAIN A CERTIFICATE UPON APPLICATION TO THE DEPARTMENT ACCORDING TO SUCH REGULATION AS THE DEPARTMENT MAY PROMULGATE.

6. AN AUTHORIZED ENTITY WHICH HAS ONE OR MORE VOLUNTEERS OR EMPLOYEES WHO HAVE SUCCESSFULLY COMPLETED AN EDUCATIONAL PROGRAM MAY OBTAIN A CERTIFICATE AUTHORIZING SUCH ENTITY TO OBTAIN A CERTIFICATE AUTHORIZING THE HOLDER TO RECEIVE, UPON PRESENTMENT OF THE CERTIFICATE, A PRESCRIPTION FOR EPINEPHRINE AUTO-INJECTORS FROM AN AUTHORIZED HEALTH CARE PRACTITIONER OR THE DEPARTMENT. THE CERTIFICATE ALSO AUTHORIZES THE HOLDER, IN AN EMERGENCY SITUATION WHEN A PHYSICIAN IS NOT IMMEDIATELY AVAILABLE, TO POSSESS AND ADMINISTER, OR DELIVER A PRESCRIBED EPINEPHRINE AUTO-INJECTOR TO A PERSON EXPERIENCING A SEVERE ALLERGIC REACTION.

S 3082. EPINEPHRINE AUTO-INJECTORS; EMERGENCY ADMINISTRATION. 1. AN AUTHORIZED HEALTH CARE PRACTITIONER MAY PRESCRIBE EPINEPHRINE AUTO-INJECTORS IN THE NAME OF AN AUTHORIZED ENTITY FOR USE IN ACCORDANCE WITH THIS SECTION, AND PHARMACISTS MAY DISPENSE EPINEPHRINE AUTO-INJECTORS PURSUANT TO A PRESCRIPTION ISSUED IN THE NAME OF AN AUTHORIZED ENTITY.

2. AN AUTHORIZED ENTITY MAY ACQUIRE AND STOCK A SUPPLY OF EPINEPHRINE AUTO-INJECTORS PURSUANT TO A PRESCRIPTION ISSUED IN ACCORDANCE WITH THIS SECTION. SUCH EPINEPHRINE AUTO-INJECTORS MUST BE STORED IN ACCORDANCE WITH THE EPINEPHRINE AUTO-INJECTOR'S INSTRUCTIONS FOR USE AND WITH ANY

ADDITIONAL REQUIREMENTS THAT MAY BE ESTABLISHED BY THE DEPARTMENT. AN AUTHORIZED ENTITY SHALL DESIGNATE EMPLOYEES OR AGENTS WHO HOLD A CERTIFICATE ISSUED PURSUANT TO SECTION THREE THOUSAND EIGHTY-ONE OF THIS ARTICLE TO BE RESPONSIBLE FOR THE STORAGE, MAINTENANCE, AND GENERAL OVERSIGHT OF EPINEPHRINE AUTO-INJECTORS ACQUIRED BY THE AUTHORIZED ENTITY.

3. AN INDIVIDUAL WHO HOLDS A CERTIFICATE ISSUED PURSUANT TO SECTION THREE THOUSAND EIGHTY-ONE OF THIS ARTICLE MAY, ON THE PREMISES OF OR IN CONNECTION WITH THE AUTHORIZED ENTITY, USE EPINEPHRINE AUTO-INJECTORS PRESCRIBED PURSUANT TO SUBDIVISION ONE OF THIS SECTION TO:

(A) PROVIDE AN EPINEPHRINE AUTO-INJECTOR TO A PERSON WHO THE CERTIFIED INDIVIDUAL IN GOOD FAITH BELIEVES IS EXPERIENCING A SEVERE ALLERGIC REACTION FOR THAT PERSON'S IMMEDIATE SELF-ADMINISTRATION, REGARDLESS OF WHETHER THE PERSON HAS A PRESCRIPTION FOR AN EPINEPHRINE AUTO-INJECTOR OR HAS PREVIOUSLY BEEN DIAGNOSED WITH AN ALLERGY.

(B) ADMINISTER AN EPINEPHRINE AUTO-INJECTOR TO A PERSON WHO THE CERTIFIED INDIVIDUAL IN GOOD FAITH BELIEVES IS EXPERIENCING A SEVERE ALLERGIC REACTION, REGARDLESS OF WHETHER THE PERSON HAS A PRESCRIPTION FOR AN EPINEPHRINE AUTO-INJECTOR OR HAS PREVIOUSLY BEEN DIAGNOSED WITH AN ALLERGY.

4. AN AUTHORIZED ENTITY THAT ACQUIRES A STOCK SUPPLY OF EPINEPHRINE AUTO-INJECTORS PURSUANT TO A PRESCRIPTION ISSUED BY AN AUTHORIZED HEALTH CARE PRACTITIONER IN ACCORDANCE WITH THIS SECTION MAY MAKE THE AUTO-INJECTORS AVAILABLE TO INDIVIDUALS OTHER THAN CERTIFIED INDIVIDUALS IDENTIFIED IN SUBDIVISION THREE OF THIS SECTION WHO MAY ADMINISTER THE AUTO-INJECTOR TO A PERSON BELIEVED IN GOOD FAITH TO BE EXPERIENCING A SEVERE ALLERGIC REACTION IF THE EPINEPHRINE AUTO-INJECTORS ARE STORED IN A SECURE LOCATION AND ARE MADE AVAILABLE ONLY UPON REMOTE AUTHORIZATION BY AN AUTHORIZED ENTITY, A 911 EMERGENCY REPRESENTATIVE, A PERSON HOLDING A CURRENT CERTIFICATE OF TRAINING OR AN AUTHORIZED HEALTH CARE PRACTITIONER AFTER CONSULTATION WITH THE AUTHORIZED HEALTH CARE PRACTITIONER BY AUDIO, OR OTHER MEANS OF ELECTRONIC COMMUNICATION. CONSULTATION WITH AN AUTHORIZED HEALTH CARE PRACTITIONER FOR THIS PURPOSE IS NOT CONSIDERED THE PRACTICE OF TELEMEDICINE OR OTHERWISE CONSTRUED AS VIOLATING ANY LAW OR RULE REGULATING THE AUTHORIZED HEALTH CARE PRACTITIONER'S PROFESSIONAL PRACTICE.

S 3083. LIABILITY. AN AUTHORIZED ENTITY AND/OR ITS AGENTS OR EMPLOYEES SHALL INCUR NO LEGAL OR FINANCIAL LIABILITY AS A RESULT OF ANY HARM OR INJURY SUSTAINED BY A PERSON CAUSED BY REASONABLE AND GOOD FAITH COMPLIANCE WITH THIS ARTICLE.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made and completed on or before such effective date.