

5337

2017-2018 Regular Sessions

I N S E N A T E

March 22, 2017

Introduced by Sens. HANNON, GALLIVAN -- 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 body imaging scanning equipment; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Section 3502 of the public health law is amended by adding
2 a new subdivision 6 to read as follows:

3 6. (A) (I) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION OR ANY OTHER
4 PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, LICENSED PRACTI-
5 TIONERS, PERSONS LICENSED UNDER THIS ARTICLE AND UNLICENSED PERSONNEL
6 EMPLOYED AT A LOCAL CORRECTIONAL FACILITY MAY, IN A MANNER PERMITTED BY
7 THE REGULATIONS PROMULGATED PURSUANT TO THIS SUBDIVISION, UTILIZE BODY
8 IMAGING SCANNING EQUIPMENT THAT APPLIES IONIZING RADIATION TO HUMANS FOR
9 PURPOSES OF SCREENING INMATES COMMITTED TO SUCH FACILITY, IN CONNECTION
10 WITH THE IMPLEMENTATION OF SUCH FACILITY'S SECURITY PROGRAM.

11 (II) THE UTILIZATION OF SUCH BODY IMAGING SCANNING EQUIPMENT SHALL BE
12 IN ACCORDANCE WITH REGULATIONS PROMULGATED BY THE DEPARTMENT, OR IN
13 CITIES HAVING A POPULATION OF TWO MILLION OR MORE, SUCH UTILIZATION
14 SHALL BE IN ACCORDANCE WITH REGULATIONS PROMULGATED BY THE NEW YORK CITY
15 DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

16 (B) PRIOR TO ESTABLISHING, MAINTAINING OR OPERATING IN A LOCAL CORREC-
17 TIONAL FACILITY ANY BODY IMAGING SCANNING EQUIPMENT, THE CHIEF ADMINIS-
18 TRATIVE OFFICER OF THE FACILITY SHALL ENSURE THAT SUCH FACILITY IS IN
19 COMPLIANCE WITH THE REGULATIONS PROMULGATED PURSUANT TO THIS SUBDIVISION
20 AND OTHERWISE APPLICABLE REQUIREMENTS FOR THE INSTALLATION, REGISTRA-
21 TION, MAINTENANCE, OPERATION AND INSPECTION OF BODY IMAGING SCANNING
22 EQUIPMENT.

23 (C) THE REGULATIONS PROMULGATED PURSUANT TO SUBPARAGRAPH (II) OF PARA-
24 GRAPH (A) OF THIS SUBDIVISION SHALL INCLUDE, BUT NOT BE LIMITED TO:

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

LBD10718-01-7

1 (I) A REQUIREMENT THAT PRIOR TO OPERATING BODY IMAGING SCANNING EQUIP-
2 MENT, UNLICENSED PERSONNEL EMPLOYED AT LOCAL CORRECTIONAL FACILITIES
3 SHALL HAVE SUCCESSFULLY COMPLETED A TRAINING COURSE APPROVED BY THE
4 DEPARTMENT, OR IN CITIES OF TWO MILLION OR MORE, APPROVED BY THE NEW
5 YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE, AND THAT SUCH PERSON-
6 NEL RECEIVE ADDITIONAL TRAINING ON AN ANNUAL BASIS;

7 (II) LIMITATIONS ON EXPOSURE WHICH SHALL BE NO MORE THAN FIFTY PERCENT
8 OF THE ANNUAL EXPOSURE LIMITS FOR NON-RADIATION WORKERS AS SPECIFIED BY
9 APPLICABLE REGULATIONS, EXCEPT THAT INMATES UNDER THE AGE OF EIGHTEEN
10 SHALL NOT BE SUBJECT TO MORE THAN FIVE PERCENT OF SUCH ANNUAL EXPOSURE
11 LIMITS, AND PREGNANT WOMEN SHALL NOT BE SUBJECT TO SUCH SCANNING AT ANY
12 TIME. PROCEDURES FOR IDENTIFYING PREGNANT WOMEN SHALL BE SET FORTH IN
13 THE REGULATIONS;

14 (III) REGISTRATION WITH THE DEPARTMENT OF EACH BODY IMAGING SCANNING
15 MACHINE PURCHASED OR INSTALLED AT A LOCAL CORRECTIONAL FACILITY;

16 (IV) INSPECTION AND REGULAR REVIEWS OF THE USE OF BODY IMAGING SCAN-
17 NING EQUIPMENT BY THE DEPARTMENT OR THE NEW YORK CITY DEPARTMENT OF
18 HEALTH AND MENTAL HYGIENE, AS APPLICABLE; AND

19 (V) A REQUIREMENT THAT RECORDS BE KEPT REGARDING EACH USE OF BODY
20 IMAGING SCANNING EQUIPMENT BY THE LOCAL CORRECTIONAL FACILITY.

21 (D) FOR THE PURPOSE OF THIS SUBDIVISION, "BODY IMAGING SCANNING EQUIP-
22 MENT" OR "EQUIPMENT" MEANS EQUIPMENT THAT UTILIZES A LOW DOSE OF IONIZ-
23 ING RADIATION TO PRODUCE AN ANATOMICAL IMAGE CAPABLE OF DETECTING
24 OBJECTS PLACED ON, ATTACHED TO OR SECRETED WITHIN A PERSON'S BODY.

25 (E) FOR THE PURPOSES OF THIS SUBDIVISION, "LOCAL CORRECTIONAL FACILI-
26 TY" SHALL HAVE THE SAME MEANING AS FOUND IN SUBDIVISION SIXTEEN OF
27 SECTION TWO OF THE CORRECTION LAW.

28 (F) ANY LOCAL GOVERNMENT AGENCY THAT UTILIZES BODY IMAGING SCANNING
29 EQUIPMENT IN A LOCAL CORRECTIONAL FACILITY UNDER ITS JURISDICTION SHALL
30 SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT, THE SPEAKER OF THE ASSEMBLY,
31 AND THE TEMPORARY PRESIDENT OF THE SENATE. SUCH REPORT SHALL BE SUBMIT-
32 TED WITHIN EIGHTEEN MONTHS AFTER THE INITIAL DATE OF REGISTRATION OF
33 SUCH EQUIPMENT WITH THE DEPARTMENT, AND ANNUALLY THEREAFTER, AND SHALL
34 CONTAIN THE FOLLOWING INFORMATION AS TO EACH SUCH FACILITY:

35 (I) THE NUMBER OF TIMES THE EQUIPMENT WAS USED ON INMATES UPON INTAKE,
36 AFTER VISITS, AND UPON THE SUSPICION OF CONTRABAND, AS WELL AS ANY OTHER
37 EVENT THAT TRIGGERS THE USE OF SUCH EQUIPMENT;

38 (II) THE AVERAGE, MEDIAN, AND HIGHEST NUMBER OF TIMES THE EQUIPMENT
39 WAS USED ON ANY INMATE, WITH CORRESPONDING EXPOSURE LEVELS;

40 (III) THE NUMBER OF TIMES THE USE OF THE EQUIPMENT DETECTED THE PRES-
41 ENCE OF DRUG CONTRABAND, WEAPON CONTRABAND, AND ANY OTHER ILLEGAL OR
42 IMPERMISSIBLE OBJECT OR SUBSTANCE;

43 (IV) INCIDENTS OR ANY INJURIES OR ILLNESS RESULTING FROM THE USE OF
44 SUCH EQUIPMENT OR REPORTED BY PERSONS SCANNED BY SUCH EQUIPMENT; AND

45 (V) ANY OTHER INFORMATION THE DEPARTMENT MAY REASONABLY REQUIRE.

46 § 2. This act shall take effect on the one hundred twentieth day after
47 it shall have become a law; provided, however, that, effective imme-
48 diately, the addition, amendment, and/or repeal of any rules and regu-
49 lations necessary to implement the provisions of this act on its effec-
50 tive date are directed to be completed on or before such effective date;
51 and provided further, that this act shall expire and be deemed repealed
52 five years after such effective date.