STATE OF NEW YORK

6838

2017-2018 Regular Sessions

IN ASSEMBLY

March 22, 2017

Introduced by M. of A. WEPRIN, GOTTFRIED -- read once and referred 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:

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

6. (a) (i) Notwithstanding the provisions of this section or any other provision of law, rule or regulation to the contrary, licensed practitioners, persons licensed under this article and unlicensed personnel employed at a local correctional facility may, in a manner permitted by the regulations promulgated pursuant to this subdivision, utilize body imaging scanning equipment that applies ionizing radiation to humans for purposes of screening inmates committed to such facility, in connection with the implementation of such facility's security program.

(ii) The utilization of such body imaging scanning equipment shall be in accordance with regulations promulgated by the department, or in cities having a population of two million or more, such utilization shall be in accordance with regulations promulgated by the New York city department of health and mental hygiene.

(b) Prior to establishing, maintaining or operating in a local correctional facility any body imaging scanning equipment, the chief administrative officer of the facility shall ensure that such facility is in compliance with the regulations promulgated pursuant to this subdivision and otherwise applicable requirements for the installation, registration, maintenance, operation and inspection of body imaging scanning equipment.

(c) The regulations promulgated pursuant to subparagraph (ii) of paragraph (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.

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(i) A requirement that prior to operating body imaging scanning equipment, unlicensed personnel employed at local correctional facilities shall have successfully completed a training course approved by the department, or in cities of two million or more, approved by the New York city department of health and mental hygiene, and that such personnel receive additional training on an annual basis;

(ii) Limitations on exposure which shall be no more than fifty percent of the annual exposure limits for non-radiation workers as specified by applicable regulations, except that inmates under the age of eighteen shall not be subject to more than five percent of such annual exposure limits, and pregnant women shall not be subject to such scanning at any time. Procedures for identifying pregnant women shall be set forth in the regulations;

(iii) Registration with the department of each body imaging scanning machine purchased or installed at a local correctional facility;

(iv) Inspection and regular reviews of the use of body imaging scanning equipment by the department or the New York city department of health and mental hygiene, as applicable; and

(v) A requirement that records be kept regarding each use of body imaging scanning equipment by the local correctional facility.

(d) For the purpose of this subdivision, "body imaging scanning equipment" or "equipment" means equipment that utilizes a low dose of ionizing radiation to produce an anatomical image capable of detecting objects placed on, attached to or secreted within a person's body.

(e) For the purposes of this subdivision, "local correctional facility" shall have the same meaning as found in subdivision sixteen of section two of the correction law.

(f) Any local government agency that utilizes body imaging scanning equipment in a local correctional facility under its jurisdiction shall submit an annual report to the department, the speaker of the assembly, and the temporary president of the senate. Such report shall be submitted within eighteen months after the initial date of registration of such equipment with the department, and annually thereafter, and shall contain the following information as to each such facility:

(i) the number of times the equipment was used on inmates upon intake, after visits, and upon the suspicion of contraband, as well as any other event that triggers the use of such equipment;

(ii) the average, median, and highest number of times the equipment was used on any inmate, with corresponding exposure levels;

(iii) the number of times the use of the equipment detected the presence of drug contraband, weapon contraband, and any other illegal or impermissible object or substance;

(iv) incidents or any injuries or illness resulting from the use of such equipment or reported by persons scanned by such equipment; and

(v) any other information the department may reasonably require.

§ 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that, effective immediately, the addition, amendment, and/or repeal of any rules and regulations necessary to implement the provisions of this act on its effective date are directed to be completed on or before such effective date; and provided further, that this act shall expire and be deemed repealed five years after such effective date.