

# STATE OF NEW YORK

60

2019-2020 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. L. ROSENTHAL, PEOPLES-STOKES, GOTTFRIED, CARROLL, NIOU, PAULIN, ORTIZ, SIMON, DICKENS, D'URSO, QUART, McDONOUGH, RICHARDSON, MOSLEY, JAFFEE, EPSTEIN -- Multi-Sponsored by -- M. of A. LENTOL, LUPARDO -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to enacting the safer consumption services act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public health law is amended by adding a new article  
2 33-B to read as follows:

### ARTICLE 33-B

#### SAFER CONSUMPTION SERVICES ACT

3 Section 3398. Short title.

4 3398-a. Definitions.

5 3398-b. Program approval.

6 3398-c. Designation.

7 3398-d. Reporting.

8 3398-e. Immunity provided.

9 3398-f. Limitations on immunity.

10 § 3398. Short title. This act shall be known and may be cited as the  
11 "safer consumption services act".

12 § 3398-a. Definitions. As used in this article:

13 1. "Program" means a safer consumption services program established  
14 pursuant to this article.

15 2. "Entity" means any community based organization that provides  
16 educational, health, harm reduction, housing, or social services and any  
17 hospital, medical clinic or office, health center, nursing care facili-  
18 ty, mental health facility, or other similar entity that provides  
19 medical care.  
20  
21

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

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1 3. "Participant" means an individual who seeks to utilize, utilizes,  
2 or has used a program established pursuant to this article.

3 § 3398-b. Program approval. 1. Notwithstanding any other statute, law  
4 or rule to the contrary, the department or a local health district may  
5 approve an entity to operate a program in one or more jurisdictions upon  
6 satisfaction of the requirements set forth in subdivision two of this  
7 section. The department and local health jurisdictions shall establish  
8 standards for program approval and training and may promulgate such  
9 rules and regulations as are necessary to implement this section.

10 (a) The department or a local health district shall approve or deny an  
11 application under this section within forty-five days of the day of  
12 receipt of the application and provide a written explanation of such  
13 determination.

14 (b) An entity may make an application under this section at any time,  
15 regardless of previous applications.

16 2. The department or local health district may approve an entity to  
17 operate a program pursuant to this article, upon submission of an appli-  
18 cation that demonstrates the entity will, at a minimum:

19 (a) provide a hygienic space where participants may consume their  
20 preobtained drugs that is separate from the space in which the provider  
21 performs other business, if any;

22 (b) provide adequate staffing by healthcare professionals or other  
23 trained staff;

24 (c) provide sterile injection supplies, collect used hypodermic  
25 needles and syringes, and provide secure hypodermic needle and syringe  
26 disposal services;

27 (d) provide education on safe consumption practices, proper disposal  
28 of hypodermic needles and syringes, and overdose prevention, including  
29 written information in, at a minimum, the four most commonly spoken  
30 languages in the state as determined by the department or local health  
31 district;

32 (e) administer first aid, if needed, and monitor participants for  
33 potential overdose;

34 (f) provide referrals to addiction treatment, medical, social welfare,  
35 and employment and training services;

36 (g) educate participants on the risks of contracting HIV and viral  
37 hepatitis and provide sexual health resources and supplies, including,  
38 but not limited to, male and female condoms;

39 (h) provide access to naloxone or referrals to obtain naloxone for  
40 participants;

41 (i) provide reasonable and adequate security of the program site and  
42 equipment;

43 (j) ensure confidentiality of program participants by using an anony-  
44 mous unique identifier;

45 (k) train staff members to deliver services offered by the program or  
46 attend trainings provided by the department or local health jurisdiction  
47 if required; and

48 (l) establish operating procedures for the program as well as eligi-  
49 bility criteria for program participants if not predetermined by the  
50 department or local health district.

51 § 3398-c. Designation. A department approved program shall also be  
52 designated as an authorized syringe exchange program in accordance with  
53 the regulations of the department as set forth in 10 NYCRR 80.135 and as  
54 a registered provider of an opioid overdose prevention program in  
55 accordance with the regulations of the department as set forth in 10  
56 NYCRR 80.138. A safer consumption program approved by a local health

1 district shall apply to be an authorized syringe exchange program and  
2 registered provider of an opioid overdose prevention program.

3 § 3398-d. Reporting. An entity operating a safer consumption program  
4 under this section shall provide an annual report to the department or  
5 local health district that approved it for operation at a date set by  
6 the department or local health district that shall include:

7 1. the number of program participants;

8 2. aggregate information regarding the characteristics of program  
9 participants;

10 3. the number of hypodermic needles and syringes distributed for use  
11 on-site;

12 4. the number of overdoses experienced and the number of overdoses  
13 reversed on-site; and

14 5. the number of individuals directly and formally referred to other  
15 services and the type of service.

16 § 3398-e. Immunity provided. Notwithstanding any other statute, law or  
17 rule to the contrary, the following persons shall not be arrested,  
18 charged, or prosecuted for any criminal offense or be subject to any  
19 civil or administrative penalty, including seizure or forfeiture of  
20 assets or real property or disciplinary action by a professional licens-  
21 ing board, or be denied any right or privilege, solely for participation  
22 or involvement in a safer consumption program approved by the department  
23 or local health districts pursuant to this article:

24 1. a participant;

25 2. a staff member or administrator of a program, including a health-  
26 care professional, manager, employee, or volunteer; or

27 3. a property owner who owns real property at which a program is  
28 located and operates.

29 § 3398-f. Limitations on immunity. Notwithstanding the provisions of  
30 section thirty-three hundred ninety-eight-e of this article, a property  
31 owner, staff member, manager, employee, volunteer, or individual utiliz-  
32 ing a safer consumption services program is not immune from criminal  
33 prosecution for any activities not permitted or approved pursuant to  
34 this article.

35 § 2. This act shall take effect immediately.