

# STATE OF NEW YORK

8038

## IN SENATE

March 11, 2020

Introduced by Sen. RIVERA -- 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 epinephrine injector devices

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

1 Section 1. Section 3000-c of the public health law, as amended by  
2 chapter 373 of the laws of 2016, paragraph (a) of subdivision 1 as  
3 amended by chapter 633 of the laws of 2019, is amended to read as  
4 follows:

5 § 3000-c. Epinephrine [~~auto-injector~~] injector devices. 1. Defi-  
6 nitions. As used in this section:

7 (a) "Eligible person or entity" means: (i) an ambulance service or  
8 advanced life support first response service; a certified first respon-  
9 der, firefighter in a city, town or village having a population of less  
10 than one million, emergency medical technician, or advanced emergency  
11 medical technician, who is employed by or an enrolled member of any such  
12 service; (ii) a children's overnight camp as defined in subdivision one  
13 of section thirteen hundred ninety-two of this chapter, a summer day  
14 camp as defined in subdivision two of section thirteen hundred ninety-  
15 two of this chapter, a traveling summer day camp as defined in subdivi-  
16 sion three of section thirteen hundred ninety-two of this chapter or a  
17 person employed by such a camp; (iii) a school district, board of coop-  
18 erative educational services, county vocational education and extension  
19 board, charter school, and non-public elementary and secondary school in  
20 this state or any person employed by any such entity, or employed by a  
21 contractor of such an entity while performing services for the entity;  
22 (iv) a sports, entertainment, amusement, education, government, day care  
23 or retail facility; an educational institution, youth organization or  
24 sports league; an establishment that serves food; or a person employed  
25 by such entity; (v) a police officer or peace officer in a city, town or  
26 village having a population of less than one million; and (vi) any other  
27 person or entity designated or approved, or in a category designated or

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

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1 approved pursuant to regulations of the commissioner in consultation  
2 with other appropriate agencies.

3 (b) "Epinephrine [~~auto-injector~~] injector device" means a single-use  
4 device used for the [~~automatic~~] injection of a premeasured dose of  
5 epinephrine into the human body for the purpose of emergency treatment  
6 of a person appearing to experience anaphylactic symptoms approved by  
7 the food and drug administration.

8 (c) "Health care practitioner" means a health care practitioner  
9 licensed, certified, or authorized to practice under title eight of the  
10 education law who is authorized thereby to administer drugs, and who is  
11 acting within the scope of his or her practice.

12 2. Possession and use. (a) Any eligible person or entity may purchase,  
13 acquire, possess and use epinephrine [~~auto-injector~~] injector devices  
14 for emergency treatment of a person appearing to experience anaphylactic  
15 symptoms, under this section.

16 (b) An eligible person or entity shall designate one or more individ-  
17 uals who have completed the training required by paragraph (c) of this  
18 subdivision to be responsible for the storage, maintenance, control, and  
19 general oversight of the epinephrine [~~auto-injectors~~] injector acquired  
20 by the eligible person or entity.

21 (c) No one may use an epinephrine [~~auto-injector~~] injector device on  
22 behalf of an eligible person or entity unless he or she has successfully  
23 completed a training course in the use of epinephrine [~~auto-injector~~]  
24 injector devices conducted by a nationally recognized organization expe-  
25 rienced in training laypersons in emergency health treatment or by an  
26 entity or individual approved by the commissioner, or is directed in a  
27 specific instance to use an epinephrine [~~auto-injector~~] injector device  
28 by a health care practitioner. The training required by this paragraph  
29 shall include (i) how to recognize signs and symptoms of severe allergic  
30 reactions, including anaphylaxis; (ii) recommended dosage for adults and  
31 children; (iii) standards and procedures for the storage and adminis-  
32 tration of an epinephrine [~~auto-injector~~] injector; and (iv) emergency  
33 follow-up procedures.

34 (d) This section does not prohibit the use of an epinephrine [~~auto-in-~~  
35 ~~jector~~] injector device (i) by a health care practitioner or (ii) by a  
36 person acting pursuant to a lawful patient-specific prescription.

37 (e) Every eligible person and entity authorized to possess and use  
38 epinephrine [~~auto-injector~~] injector devices pursuant to this section  
39 shall use, maintain and dispose of such devices pursuant to regulations  
40 of the department.

41 (f) Nothing in this section shall require any eligible person or enti-  
42 ty to acquire, possess, store, make available, or administer an epineph-  
43 rine [~~auto-injector~~] injector.

44 3. Prescriptions. (a) A health care practitioner who is authorized to  
45 prescribe drugs may prescribe, dispense or provide an epinephrine [~~auto-~~  
46 ~~injector~~] injector device to or for an eligible person or entity by a  
47 non-patient-specific prescription.

48 (b) A pharmacist may dispense an epinephrine [~~auto-injector~~] injector  
49 pursuant to a non-patient-specific prescription under this subdivision.

50 (c) This subdivision does not limit any other authority a health care  
51 practitioner or pharmacist has to prescribe, dispense, provide or admin-  
52 ister an epinephrine [~~auto-injector~~] injector device.

53 4. Application of other laws. (a) Use of an epinephrine [~~auto-injee-~~  
54 ~~tor~~] injector device pursuant to this section shall be considered first  
55 aid or emergency treatment for the purpose of any statute relating to  
56 liability.

1 (b) Purchase, acquisition, possession or use of an epinephrine [~~auto-~~  
2 ~~injector~~] injector device pursuant to this section shall not constitute  
3 the unlawful practice of a profession or other violation under title  
4 eight of the education law or article thirty-three of this chapter.

5 (c) Any person otherwise authorized to sell or provide an epinephrine  
6 [~~auto-injector~~] injector device may sell or provide it to a person or  
7 entity authorized to possess it pursuant to this section.

8 § 2. This act shall take effect immediately.