

# STATE OF NEW YORK

3273

2021-2022 Regular Sessions

## IN SENATE

January 28, 2021

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the education law, in relation to requiring nebulizers on school grounds; and to amend chapter 672 of the laws of 2007, amending the education law relating to the maintenance of on-site nebulizers, in relation to the effectiveness thereof; and making an appropriation therefor

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

1 Section 1. The education law is amended by adding a new section 804-e  
2 to read as follows:

3 § 804-e. Nebulizer instruction. Instructions regarding the correct use  
4 of a nebulizer shall be included as a part of the health education  
5 curriculum in all senior high schools when cardiopulmonary resuscitation  
6 instruction is being provided as authorized by section eight hundred  
7 four-c of this article. Persons instructing pupils in the correct use  
8 of nebulizers shall possess valid certification by a nationally recog-  
9 nized organization or the state emergency medical services council  
10 offering certification in the operation of a nebulizer and in its  
11 instruction.

12 § 2. Section 919 of the education law, as amended by chapter 42 of the  
13 laws of 2008, is amended to read as follows:

14 § 919. On-site nebulizers. 1. [~~The board of education or trustees of~~  
15 ~~the school district responsible for providing health services in a~~  
16 ~~school, or the board of cooperative educational services in the case of~~  
17 ~~programs under its jurisdiction]~~ School districts, boards of cooperative  
18 educational services, county vocational education and extension boards  
19 and charter schools, shall [make] provide and maintain a nebulizer  
20 [available] on-site in every public and private school building in  
21 [which full or part time nurse services are provided] a manner that  
22 ensures ready and appropriate access for use during emergencies.

23 2. Nebulizers in such school buildings shall be made available to  
24 allow reasonable access to all public and private school students with a  
25 patient specific order, who require inhaled medications administered by

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

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1 a nebulizer, provided, however, that nebulizers shall be administered by  
2 a school nurse or physician pursuant to the student's patient specific  
3 order. Every nebulizer shall be maintained in working order by the  
4 school district or board of cooperative educational services that  
5 provides school health services to the school building where the nebu-  
6 lizer is located.

7 ~~[2-]~~ 3. Whenever public or private school facilities pursuant to  
8 subdivision one of this section are used for school sponsored or school  
9 approved curricular or extracurricular events or activities and whenever  
10 a school-sponsored athletic contest is held at any location, the public  
11 school officials and administrators responsible for such school facility  
12 or athletic contest shall ensure the presence of at least one staff  
13 person who is trained in the operation and use of a nebulizer. Where a  
14 school-sponsored competitive athletic event is held at a site other than  
15 a public school facility, the public school officials shall assure that  
16 a nebulizer is provided on-site.

17 4. Any employee or other agent of any school district, board of coop-  
18 erative educational services, county vocational education and extension  
19 board and charter school who, in accordance with the provisions of this  
20 section, voluntarily and without expectation of monetary compensation  
21 renders emergency medical or first aid treatment using a nebulizer which  
22 has been made available pursuant to this section, to a person who is  
23 unconscious, ill or injured, shall be liable only pursuant to subdivi-  
24 sion one of section three thousand-a of the public health law.

25 5. The commissioner shall be authorized to promulgate regulations for  
26 the implementation of this section.

27 § 3. Section 2 of chapter 672 of the laws of 2007, amending the educa-  
28 tion law relating to the maintenance of on-site nebulizers, is amended  
29 to read as follows:

30 § 2. This act shall take effect September 1, 2007~~[, provided, however,~~  
31 ~~that if upon such effective date, an appropriation to the education~~  
32 ~~department shall not have been made for reimbursement of school~~  
33 ~~districts and boards of cooperative educational services for the~~  
34 ~~purposes of implementing the provisions of section 919 of the education~~  
35 ~~law, as added by section one of this act, then this act shall take~~  
36 ~~effect on the forty fifth day after such an appropriation is made, and~~  
37 ~~provided, further, that the division of the budget shall notify the~~  
38 ~~legislative bill drafting commission on September 1, 2007 whether such~~  
39 ~~an appropriation has been made, and if such appropriation shall not have~~  
40 ~~been made on or before such date, the division of the budget shall noti-~~  
41 ~~fy the legislative bill drafting commission upon the date such an appro-~~  
42 ~~priation shall have been made, in order that the commission may maintain~~  
43 ~~an accurate and timely effective data base of the official text of the~~  
44 ~~laws of the state of New York in furtherance of effectuating the~~  
45 ~~provisions of section 44 of the legislative law and section 70-b of the~~  
46 ~~public officers law].~~

47 § 4. The state of New York shall make an appropriation to the depart-  
48 ment of education for reimbursement of school districts and boards of  
49 cooperative educational services for the purposes of implementing this  
50 act.

51 § 5. This act shall take effect on the one hundred twentieth day  
52 after it shall have become a law; provided, however, that section three  
53 of this act shall take effect immediately. Effective immediately, the  
54 addition, amendment and/or repeal of any rule or regulation necessary  
55 for the implementation of this act on its effective date are authorized  
56 to be made on or before such effective date.