

STATE OF NEW YORK

7499

2023-2024 Regular Sessions

IN SENATE

June 1, 2023

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

AN ACT to amend the public health law, the tax law and the state finance law, in relation to establishing the "first responder epinephrine preparedness initiative (EPI) act"

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

1 Section 1. This act shall be known and may be cited as the "first
2 responder epinephrine preparedness initiative (EPI) act".

3 § 2. The public health law is amended by adding a new section 3000-f
4 to read as follows:

5 § 3000-f. First responder epinephrine access program. 1. Definitions.
6 As used in this section the following terms shall have the following
7 meanings:

8 (a) "Eligible entity" means any entity designated as such by subpara-
9 graph (i), (v), (vi), or (vii) of paragraph (a) of subdivision one of
10 section three thousand-c of this article, or that is otherwise desig-
11 ned as such by the commissioner.

12 (b) "Epinephrine auto-injector device" means a single-use device used
13 for the automatic injection of a premeasured dose of epinephrine into
14 the human body for the purpose of emergency treatment of a person
15 appearing to experience anaphylactic symptoms approved by the food and
16 drug administration.

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

21 (d) "Syringe epinephrine kit" means a kit containing the materials
22 used to provide an intramuscular injection of epinephrine for the
23 purpose of emergency treatment of a person appearing to experience
24 anaphylactic symptoms.

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

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1 (e) "Participating entities" means any eligible entities including an
2 ambulance service; voluntary ambulance service or advanced life support
3 first response service employing emergency medical technicians, or
4 advanced emergency medical technicians, or volunteer emergency medical
5 technicians; governmental agencies employing certified first responders;
6 police departments employing police or peace officers; and fire depart-
7 ments employing firefighters or volunteer firefighters.

8 (f) "Program" means the first responder epinephrine access program
9 established pursuant to subdivision two of this section.

10 (g) "Relevant employee" means an employee, volunteer, contractor, or
11 any other designee of an eligible entity who is designated or approved
12 by such eligible entity to provide or assist in the provision of first
13 aid or emergency treatment in the course of their duties.

14 2. First responder epinephrine access program. (a) The commissioner is
15 hereby directed to establish the first responder epinephrine access
16 program. Under such program, eligible entities under subdivision three
17 of this section shall be required to:

18 (i) train relevant employees of such entities in the use of epineph-
19 rine auto-injectors consistent with paragraph (c) of subdivision two of
20 section three thousand-c of this article, and/or in the use of syringe
21 epinephrine kits according to standards designated by the commissioner;
22 and

23 (ii) equip relevant employees with epinephrine auto-injectors and/or
24 syringe epinephrine kits for the purpose of rendering aid to individuals
25 appearing to experience anaphylactic symptoms.

26 (b) The commissioner may identify any other training or equipment
27 necessary for participating in the program, provided however that enti-
28 ties participating in the program shall receive sufficient funding to
29 train and equip relevant employees accordingly.

30 (c) No employee of a participating entity shall use an epinephrine
31 auto-injector or syringe epinephrine kit provided through the program
32 unless such employee has first participated in the training outlined
33 under subparagraph (i) of paragraph (a) of this subdivision, except
34 where directed in a specific instance to use a syringe epinephrine kit
35 by a health care practitioner.

36 3. Participation. Participation in the program by eligible entities
37 shall be required, unless the commissioner grants an eligible entity a
38 waiver as described in subdivision ten of this section.

39 4. Protection from liability. Use of an epinephrine auto-injector
40 device or a syringe epinephrine kit pursuant to this section shall be
41 considered first aid or emergency treatment for the purpose of any stat-
42 ute relating to liability.

43 5. Exclusion. Notwithstanding any other provision of law, no for-pro-
44 fit entity shall be eligible for participation in the program.

45 6. Reporting by participating entities. (a) Each participating entity
46 shall submit data from the past twelve months to the commissioner on or
47 before October first of each year containing:

48 (i) the number of epinephrine auto-injectors and syringe epinephrine
49 kits that were received through the program and subsequently used in the
50 course of official duties;

51 (ii) the number of epinephrine auto-injectors and/or syringe epineph-
52 rine kits received through the program which were subsequently lost,
53 rendered unusable, or expired;

54 (iii) the number of employees who received training in the use of
55 epinephrine auto-injectors and/or syringe epinephrine kits pursuant to
56 this section, and the number of such employees who used an epinephrine

1 auto-injector and/or syringe epinephrine kit in the course of their
2 official duties;

3 (iv) the actual or estimated incurred costs of training and equipping
4 such entity's relevant employees pursuant to subdivision two of this
5 section, provided however that the report shall identify whether such
6 costs are actual or estimated;

7 (v) the actual or estimated incurred cost of complying with any addi-
8 tional rules or regulations issued pursuant to subdivision seven of this
9 section, provided however that the report shall identify whether such
10 costs are actual or estimated; and

11 (vi) other relevant information as deemed necessary by the commis-
12 er.

13 (b) Each year the commissioner shall review the data reported by
14 participating entities pursuant to this subdivision, along with any
15 other relevant data, to determine:

16 (i) the amount of funding needed to cover the cost of training, equip-
17 ment, and compliance costs pursuant to this subdivision; and

18 (ii) statutory or regulatory changes which the commissioner deter-
19 mines, in his or her professional judgement, are likely to improve
20 health outcomes for New Yorkers, increase the efficiency of the program,
21 or otherwise meet the goals of the state and its political subdivisions,
22 eligible entities participating in the program, and/or the general
23 public.

24 (c) The commissioner shall compile and publish a report containing
25 their findings no later than December first of each year.

26 7. The commissioner may promulgate additional rules or regulations as
27 deemed necessary for the program, provided however that any rules or
28 regulations which impose a cost upon participating entities shall be
29 contingent upon the provision of funding sufficient to cover the cost of
30 compliance.

31 8. Any eligible entity which is participating in the program and has
32 received funding pursuant to this section shall not use such funding
33 except in accordance with this section.

34 9. Funding. The commissioner shall be authorized to use funds
35 collected according to section two hundred six of this chapter and held
36 in the municipal epinephrine bulk purchase program to assist eligible
37 entities in purchasing epinephrine auto-injector devices and/or syringe
38 epinephrine kits.

39 10. Waiver. (a) Participation in the program by an eligible entity may
40 be waived by the commissioner upon an application made by such eligible
41 entity. Such application shall include a request for waiver, and reasons
42 to support such request. Waivers shall only be granted based upon a
43 showing of impracticability to fund the program based on the eligible
44 entity's budget.

45 (b) Such request for waiver shall be made annually, and the commis-
46 sioner shall re-consider such request annually.

47 § 3. Section 206 of the public health law is amended by adding a new
48 subdivision 32 to read as follows:

49 32. The commissioner shall be authorized to approve and implement a
50 municipal epinephrine bulk purchase program designed to assist munici-
51 palities to make bulk purchase of epinephrine for use by entities
52 participating in the first responder epinephrine access program under
53 section three thousand-f of this chapter.

54 § 4. The tax law is amended by adding a new section 209-Q to read as
55 follows:

1 § 209-Q. Gift for municipal epinephrine bulk purchases. A taxpayer in
2 any taxable year may elect to contribute to the support of the municipal
3 epinephrine bulk purchase fund established pursuant to section ninety-
4 seven-uuuu of the state finance law. Such contribution shall be in any
5 whole dollar amount and shall not reduce the amount of the state tax
6 owed by such taxpayer. The commissioner shall include space on the
7 corporate income tax return to enable a taxpayer to make such contrib-
8 ution. Notwithstanding any other provision of law, all revenues
9 collected pursuant to this section shall be credited to the municipal
10 epinephrine bulk purchase fund established pursuant to section ninety-
11 seven-uuuu of the state finance law, and shall be used only for those
12 purposes enumerated in section ninety-seven-uuuu of the state finance
13 law.

14 § 5. The tax law is amended by adding a new section 630-1 to read as
15 follows:

16 § 630-1. Gift for municipal epinephrine bulk purchases. An individual
17 in any taxable year may elect to contribute to the municipal epinephrine
18 bulk purchase fund established pursuant to section ninety-seven-uuuu of
19 the state finance law. Such contribution shall be in any whole dollar
20 amount and shall not reduce the amount of state tax owed by such indi-
21 vidual. The commissioner shall include space on the personal income tax
22 return to enable a taxpayer to make such contribution. Notwithstanding
23 any other provision of law, all revenues collected pursuant to this
24 section shall be credited to the municipal epinephrine bulk purchase
25 fund established pursuant to section ninety-seven-uuuu of the state
26 finance law and used only for those purposes enumerated in section nine-
27 ty-seven-uuuu of the state finance law.

28 § 6. The state finance law is amended by adding a new section 97-uuuu
29 to read as follows:

30 § 97-uuuu. Municipal epinephrine bulk purchase fund. 1. There is here-
31 by established in the joint custody of the commissioner of taxation and
32 finance and the comptroller, a special fund to be known as the "munici-
33 pal epinephrine bulk purchase fund".

34 2. Such fund shall consist of all revenues received by the department
35 of taxation and finance, pursuant to the provisions of section two
36 hundred nine-Q and section six hundred thirty-1 of the tax law, and all
37 other moneys appropriated, credited or transferred thereto from any
38 other fund or source pursuant to law. Nothing contained in this section
39 shall prevent the state from receiving grants, gifts or bequests for the
40 purposes of the fund as defined in this section and depositing them into
41 the fund according to law.

42 3. Monies of the fund shall be expended to provide price reductions
43 for municipalities purchasing epinephrine for the first responder
44 epinephrine access program established by the commissioner of health
45 pursuant to section three thousand-f of the public health law, within
46 such municipalities pursuant to the municipal epinephrine bulk purchase
47 program established by the commissioner of health pursuant to subdivi-
48 sion thirty-two of section two hundred six of the public health law.

49 4. Monies shall be payable from the fund on the audit and warrant of
50 the comptroller on vouchers approved and certified by the commissioner
51 of health.

52 5. To the extent practicable, the commissioner of health shall ensure
53 that all monies received during a fiscal year are expended prior to the
54 end of that fiscal year.

55 6. On or before the first day of February each year, the commissioner
56 of health shall provide a written report to the temporary president of

1 the senate, speaker of the assembly, chair of the senate finance commit-
2 tee, chair of the assembly ways and means committee, chair of the senate
3 committee on health, chair of the assembly health committee, state comp-
4 troller and the public. Such report shall include how the monies of the
5 fund were utilized during the preceding calendar year, and shall
6 include: (a) the amount of money disbursed from the fund and the award
7 process used for such disbursements; (b) recipients of awards from the
8 fund; (c) the amount awarded to each recipient; (d) the purposes for
9 which such awards were granted; and (e) a summary financial plan for
10 such monies which shall include estimates of all receipts and all
11 disbursements for the current and succeeding fiscal years, along with
12 the actual results from the prior fiscal year.

13 § 7. This act shall take effect on the ninetieth day after it shall
14 have become a law. Effective immediately, the addition, amendment and/or
15 repeal of any rule or regulation necessary for the implementation of
16 this act on its effective date are authorized to be made and completed
17 on or before such effective date.