STATE OF NEW YORK

7018

2023-2024 Regular Sessions

IN ASSEMBLY

May 10, 2023

Introduced by M. of A. DARLING -- read once and referred 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:

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

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

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

(a) "Eligible entity" means any entity designated as such by subparagraph (i), (v), (vi), or (vii) of paragraph (a) of subdivision one of section three thousand-c of this article, or that is otherwise designated as such by the commissioner.

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

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

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

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

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(e) "Participating entities" means any eligible entities including an ambulance service; voluntary ambulance service or advanced life support first response service employing emergency medical technicians, or advanced emergency medical technicians, or volunteer emergency medical technicians; governmental agencies employing certified first responders; police departments employing police or peace officers; and fire departments employing firefighters or volunteer firefighters.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vi) other relevant information as deemed necessary by the commissioner.

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

(i) the amount of funding needed to cover the cost of training, equipment, and compliance costs pursuant to this subdivision; and

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

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

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

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

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

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

(b) Such request for waiver shall be made annually, and the commissioner shall re-consider such request annually.

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

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

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

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

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

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

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

§ 97-uuuu. Municipal epinephrine bulk purchase fund. 1. There is hereby established in the joint custody of the commissioner of taxation and finance and the comptroller, a special fund to be known as the "municipal epinephrine bulk purchase fund".

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

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

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

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

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

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

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