

STATE OF NEW YORK

808--B

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. KELLES, GONZALEZ-ROJAS, FORREST, SEAWRIGHT, MEEKS, DAVILA, ZACCARO, MAMDANI, REYES, HEVESI, BICHOTTE HERMELYN, EPSTEIN, ROSENTHAL, BURDICK, TAPIA, TAYLOR, BENEDETTO, McDONALD, LUNSFORD -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to establishing a drug checking program including requirements for enhanced drug checking service delivery and public health surveillance

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 section
2 507 to read as follows:

3 § 507. Drug checking services program. 1. For purposes of this
4 section, the following terms shall have the following meanings:

5 (a) "Enhanced drug checking services" means the utilization of all
6 forms of drug testing equipment including complex technology or equip-
7 ment designed to analyze substances and provide results at point of
8 testing or point of care, which may include but is not limited to, chem-
9 ical screening devices such as infrared spectrophotometers, raman spec-
10 trophotometers, or ion mobility spectrometers.

11 (b) "Public health surveillance" means the continuous and systematic
12 collection, analysis, and interpretation of data needed for the plan-
13 ning, implementation, and evaluation of public health initiatives.
14 Public health surveillance may be used for the following purposes:

15 (i) as an early warning system for impending public health emergen-
16 cies;

17 (ii) to document the impact of an intervention;

18 (iii) to track progress towards specific goals;

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

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1 (iv) to monitor and clarify the epidemiology of health outcomes; and
2 (v) to inform the public health policy and practices.

3 2. The department shall:

4 (a) establish a program to authorize a county or municipality or other
5 entity to provide enhanced drug checking services to assist individuals
6 in determining whether a drug or controlled substance contains contam-
7 inants, toxic substances, or hazardous compounds; and

8 (b) establish public health surveillance of the unregulated drug
9 supply to monitor trends and the impact on health outcomes and increase
10 public awareness of new substances in the unregulated drug supply.

11 3. The commissioner shall promulgate rules and regulations for the
12 provision of enhanced drug checking services which shall include but not
13 be limited to:

14 (a) providing information and harm reduction advice to help individ-
15 uals make informed decisions about drug use;

16 (b) testing any drug or substance that an individual presents for
17 checking to ascertain the composition and likely identity of such drug
18 or substance;

19 (c) advising the individual who presented a drug or substance for
20 checking of the results of the testing;

21 (d) disposing of or arranging for the disposal of, any sample of a
22 drug or substance used in testing and any drug or substance surrendered
23 by any individual for disposal; and

24 (e) if necessary, arranging for a sample of a drug or substance to be
25 tested by a department approved laboratory.

26 4. The department shall develop policies and procedures to:

27 (a) utilize enhanced drug checking technology for public health
28 surveillance;

29 (b) develop requirements for technician training to ensure accurate
30 point-of-testing and point-of-care results;

31 (c) identify appropriate equipment to use; and

32 (d) establish reporting processes.

33 5. Employees, contractors, and volunteers of the department, direc-
34 tors, managers, employees, contractors, and volunteers of an entity
35 providing drug checking services, owners of properties where drug check-
36 ing services occur, counties, municipalities or other entities author-
37 ized by the department, and individuals presenting drugs or substances
38 for checking, acting in the course and scope of employment or engaged in
39 good faith in the provision of enhanced drug checking services, in
40 accordance with established protocols, shall not be subject to:

41 (a) arrest, charges, or prosecution pursuant to article thirty-three
42 of this chapter or any violation or misdemeanor, including for attempt-
43 ing, aiding and abetting, or conspiracy to commit a violation or misde-
44 meanor pursuant to article two hundred twenty of the penal law; or

45 (b) a civil or administrative penalty or liability of any kind, or
46 disciplinary action by a professional licensing board, for conduct
47 relating to the provision of authorized drug checking services unless
48 such conduct was performed in a negligent manner or in bad faith.

49 6. The department and entities authorized by the department shall not
50 collect, maintain, use, or disclose any personal information relating to
51 an individual from whom the department or other authorized entity
52 receives any drug or substance for checking or disposal.

53 7. The result of any test carried out by the department or an author-
54 ized entity in relation to any drug or substance presented for checking
55 shall not be admissible as evidence in any criminal or civil proceedings

1 against the individual from whom the drug or substance was received,
2 unless submitted by such individual.

3 § 2. Subdivision 1 of section 3305 of the public health law, as
4 amended by chapter 547 of the laws of 1981, paragraph (d) as amended by
5 chapter 635 of the laws of 1997, is amended to read as follows:

6 1. The provisions of this article restricting the possession and
7 control of controlled substances and official New York state
8 prescription forms shall not apply:

9 (a) to common carriers or to [~~warehousemen~~] warehouse worker while
10 engaged in lawfully transporting or storing such substances, or to any
11 employee of the same acting within the scope of [~~his~~] their employment;
12 or

13 (b) to public officers or their employees in the lawful performance of
14 their official duties requiring possession or control of controlled
15 substances; or

16 (c) to temporary incidental possession by employees or agents of
17 persons lawfully entitled to possession, or by persons whose possession
18 is for the purpose of aiding public officers in performing their offi-
19 cial duties[~~-~~]; or

20 (d) to employees, contractors, and volunteers of the department,
21 directors, managers, employees, contractors, and volunteers of an entity
22 providing drug checking services authorized under section five hundred
23 seven of this chapter, owners of properties where such authorized drug
24 checking services occur, counties, municipalities, or other entities
25 authorized by the department, and individuals presenting drugs or
26 substances for checking, acting in the course and scope of employment or
27 engaged in good faith in the provision of authorized drug checking
28 services, in accordance with established protocols; or

29 (e) to a duly authorized agent of an incorporated society for the
30 prevention of cruelty to animals or a municipal animal control facility
31 for the limited purpose of buying, possessing, and dispensing to regis-
32 tered and certified personnel, ketamine hydrochloride to anesthetize
33 animals and/or sodium pentobarbital to euthanize animals, including but
34 not limited to dogs and cats. The department shall, consistent with the
35 public interest, register such duly authorized agent and such agent
36 shall file, on a quarterly basis, a report of purchase, possession, and
37 use of ketamine hydrochloride and/or sodium pentobarbital, which report
38 shall be certified by the society for the prevention of cruelty to
39 animals or municipal animal control facility as to its accuracy and
40 validity. This report shall be in addition to any other record keeping
41 and reporting requirements of state and federal law and regulation. The
42 department shall adopt rules and regulations providing for the registra-
43 tion and certification of any individual who, under the direction of the
44 duly authorized and registered agent of an incorporated society for the
45 prevention of cruelty to animals, or municipal animal control facility,
46 uses ketamine hydrochloride to anesthetize animals and/or sodium pento-
47 barbital to euthanize animals, including but not limited to dogs and
48 cats. The department may also adopt such other rules and regulations as
49 shall provide for the safe and efficient use of ketamine hydrochloride
50 and/or sodium pentobarbital by incorporated societies for the prevention
51 of cruelty to animals and animal control facilities. Nothing in this
52 paragraph shall be deemed to waive any other requirement imposed on
53 incorporated societies for the prevention of cruelty to animals and
54 animal control facilities by state and federal law and regulation.

55 § 3. This act shall take effect immediately; provided, however, that
56 subdivisions one, two, three and four of section 507 of the public

1 health law, as added by section one of this act, shall take effect on
2 the first of April next succeeding the fiscal year in which this act
3 shall have become a law. Effective immediately, the addition, amendment,
4 and/or repeal of any rule or regulation necessary for the implementation
5 of this act on its effective date are authorized to be made and
6 completed on or before such effective date.