STATE OF NEW YORK

56

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. FERNANDEZ, CLEARE, JACKSON, MAY, RIVERA, SALAZAR -- 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 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:

Section 1. The public health law is amended by adding a new section 3309-c to read as follows:

§ 3309-c. Drug checking services program. 1. For purposes of this section, the following terms shall have the following meanings:

(a) "Enhanced drug checking services" means the utilization of all forms of drug testing equipment including complex technology or equipment designed to analyze substances and provide results at point of testing or point of care, which may include but is not limited to, chemical screening devices such as infrared spectrophotometers, raman spectrophotometers, or ion mobility spectrometers.

(b) "Public health surveillance" means the continuous and systematic collection, analysis, and interpretation of data needed for the planning, implementation, and evaluation of public health initiatives. Public health surveillance may be used for the following purposes:

(i) as an early warning system for impending public health emergencies;

(ii) to document the impact of an intervention;

(iii) to track progress towards specific goals;

(iv) to monitor and clarify the epidemiology of health outcomes; and

(v) to inform the public health policy and practices.

2. The department shall:

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

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(a) establish a program to provide, or authorize a local government or other entity to provide enhanced drug checking services to assist individuals in determining whether a drug or controlled substance contains contaminants, toxic substances, or hazardous compounds; and

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

3. Enhanced drug checking services programs shall follow all policies established by the department and submit data in accordance with policies established by the department.

4. The department shall develop policies and procedures to:

(a) authorize enhanced drug checking service delivery;

(b) utilize enhanced drug checking technology for public health surveillance;

(c) develop requirements for technician training to ensure accurate point of testing and point of care results;

(d) identify appropriate equipment to use; and

(e) establish reporting processes.

5. Employees, contractors, and volunteers of the department, directors, managers, employees, contractors, and volunteers of an organization providing drug checking services, owners of properties where drug checking services occur, local governments or other entities authorized by the department, and individuals presenting drugs or substances for checking, acting in the course and scope of employment or engaged in good faith in the provision of enhanced drug checking services, in accordance with established protocols, shall not be subject to:

(a) arrest, charges, or prosecution pursuant to this article or any violation or misdemeanor, including for attempting, aiding and abetting, or conspiracy to commit a violation or misdemeanor pursuant to article two hundred twenty of the penal law; or

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

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

7. The result of any test carried out by the department or an authorized local government or entity in relation to any drug or substance presented for checking shall not be admissible as evidence in any criminal or civil proceedings against the individual from whom the drug or substance was received, unless submitted by such individual.

§ 2. This act shall take effect on the first of April next succeeding the fiscal year in which this act 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.