STATE OF NEW YORK

56--B

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, 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:

Section 1. The public health law is amended by adding a new section 507 to read as follows:

§ 507. 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 authorize a county or municipality 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. The commissioner shall promulgate rules and regulations for the provision of enhanced drug checking services which shall include but not be limited to:

(a) providing information and harm reduction advice to help individuals make informed decisions about drug use;

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

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

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

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

4. The department shall develop policies and procedures to:

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

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

(c) identify appropriate equipment to use; and

(d) establish reporting processes.

5. Employees, contractors, and volunteers of the department, directors, managers, employees, contractors, and volunteers of an entity providing drug checking services, owners of properties where drug checking services occur, counties, municipalities 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 article thirty-three of this chapter 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 authorized drug checking services unless such conduct was performed in a negligent manner or in bad faith.

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

7. The result of any test carried out by the department or an authorized 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.

8. The commissioner shall promulgate such rules and regulations as are necessary to effectuate the provisions of this section.

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

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

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

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

(c) to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties[~~.~~]; or

(d) to employees, contractors, and volunteers of the department, directors, managers, employees, contractors, and volunteers of an entity providing drug checking services authorized under section five hundred seven of this chapter, owners of properties where such authorized drug checking services occur, counties, municipalities, 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 authorized drug checking services, in accordance with established protocols; or

(e) to a duly authorized agent of an incorporated society for the prevention of cruelty to animals or a municipal animal control facility for the limited purpose of buying, possessing, and dispensing to registered and certified personnel, ketamine hydrochloride to anesthetize animals and/or sodium pentobarbital to euthanize animals, including but not limited to dogs and cats. The department shall, consistent with the public interest, register such duly authorized agent and such agent shall file, on a quarterly basis, a report of purchase, possession, and use of ketamine hydrochloride and/or sodium pentobarbital, which report shall be certified by the society for the prevention of cruelty to animals or municipal animal control facility as to its accuracy and validity. This report shall be in addition to any other record keeping and reporting requirements of state and federal law and regulation. The department shall adopt rules and regulations providing for the registration and certification of any individual who, under the direction of the duly authorized and registered agent of an incorporated society for the prevention of cruelty to animals, or municipal animal control facility, uses ketamine hydrochloride to anesthetize animals and/or sodium pentobarbital to euthanize animals, including but not limited to dogs and cats. The department may also adopt such other rules and regulations as shall provide for the safe and efficient use of ketamine hydrochloride and/or sodium pentobarbital by incorporated societies for the prevention of cruelty to animals and animal control facilities. Nothing in this paragraph shall be deemed to waive any other requirement imposed on incorporated societies for the prevention of cruelty to animals and animal control facilities by state and federal law and regulation.

§ 3. This act shall take effect immediately; provided, however, that subdivisions four and eight of section 507 of the public health law, as added by section one of this act, shall take effect on the ninetieth day after it shall have become a law.