

Introduced by Senator HuffFebruary 22, 2013

An act to add Section 4119.3 to the Business and Professions Code, to add Section 1714.23 to the Civil Code, and to add Section 1797.197a to the Health and Safety Code, relating to emergency medical care.

LEGISLATIVE COUNSEL'S DIGEST

SB 669, as introduced, Huff. Emergency medical care: epinephrine auto-injectors.

(1) Existing law authorizes a school district or county office of education to provide emergency epinephrine auto-injectors to trained personnel, and authorizes that trained personnel to utilize those epinephrine auto-injectors to provide emergency medical aid to persons suffering from an anaphylactic reaction. The Pharmacy Law authorizes a pharmacy to furnish epinephrine auto-injectors to a school district or county office of education if certain conditions are met. A violation of the Pharmacy Law is a crime.

Existing law requires the Emergency Medical Services Authority to establish training and standards for all prehospital emergency care personnel regarding the characteristics and method of assessment and treatment of anaphylactic reactions and the use of epinephrine, and to promulgate regulations therefor.

This bill would authorize a prehospital emergency medical care person, first responder, or lay rescuer to use an epinephrine auto-injector to render emergency care to another person, as specified. The bill would require the California Emergency Medical Services (EMS) Authority to establish or approve authorized training providers and minimum standards for training and the use and administration of epinephrine auto-injectors, in consultation with the local emergency medical system

agency, the county health department, the manufacturer, the State Department of Health Care Services, and other private organizations. The bill would specify components to be included in the minimum training and requirements. The bill would provide that these minimum standards apply to a school district or county office of education for the emergency administration of epinephrine auto-injectors, but would permit the adoption of more stringent standards.

The bill would authorize a pharmacy to dispense epinephrine auto-injectors to a prehospital emergency medical care person, first responder, or lay rescuer for the purpose of rendering emergency care in accordance with these provisions. Because a violation of this requirement would be a crime, the bill would impose a state-mandated local program.

(2) Under existing law, everyone is generally responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself or herself.

This bill would provide that a prehospital emergency care person, first responder, or lay rescuer who administers an epinephrine auto-injector to another person who appears to be experiencing anaphylaxis at the scene of an emergency situation, in good faith and not for compensation, is not liable for any civil damages resulting from his or her acts or omissions in administering the epinephrine auto-injector, if that person has complied with specified certification and training requirements and standards. The bill also would provide immunity to a local agency, entity of state or local government, or other public or private organization that sponsors, authorizes, supports, finances, or supervises the training of those persons, or develops standards, for civil damages alleged to result from those training programs or standards.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4119.3 is added to the Business and
2 Professions Code, to read:

3 4119.3. (a) Notwithstanding any other law, a pharmacy may
4 dispense epinephrine auto-injectors to a prehospital emergency
5 care person, first responder, or lay rescuer for the purpose of
6 rendering emergency care in accordance with Section 1797.197a
7 of the Health and Safety Code, if both of the following
8 requirements are met:

9 (1) A physician and surgeon provides a written order that
10 specifies the quantity of epinephrine auto-injectors to be dispensed
11 to a person described in subdivision (b) of Section 1797.197a. The
12 physician and surgeon may issue the prescription only upon
13 presentation of a current certificate demonstrating that the person
14 is trained and qualified under Section 1797.197a of the Health and
15 Safety Code to administer an epinephrine auto-injector to another
16 person in an emergency situation. The prescription shall specify
17 that the dispensed epinephrine auto-injector is for “EMS Purposes
18 Only” and that the named recipient is a “Section 1797.197a
19 Responder.” A new prescription shall be written for any additional
20 epinephrine auto-injectors required.

21 (2) (A) The pharmacy shall label each epinephrine auto-injector
22 dispensed with all of the following:

23 (i) The name of the person to whom the prescription was issued.

24 (ii) The designations “Section 1797.197a Responder” and “EMS
25 Purposes Only.”

26 (iii) The dosage, use, and expiration date.

27 (B) Each dispensed prescription shall include the manufacturer's
28 product information sheet for the epinephrine auto-injector.

29 (b) The person described in subdivision (b) of Section 1797.197a
30 of the Health and Safety Code receiving epinephrine auto-injectors
31 pursuant to this section shall make and maintain a record for five
32 years reflecting dates of receipt, use, and destruction of each
33 auto-injector dispensed, the name of any person to whom
34 epinephrine was administered using an auto-injector, and the
35 circumstances and manner of destruction of any auto-injectors.

36 (c) The epinephrine auto-injectors dispensed pursuant to this
37 section may be used only for the purpose, and under the

1 circumstances, described in Section 1797.197a of the Health and
2 Safety Code.

3 SEC. 2. Section 1714.23 is added to the Civil Code, to read:

4 1714.23. (a) For purposes of this section, the following
5 definitions shall apply:

6 (1) “Anaphylaxis” means a potentially life-threatening
7 hypersensitivity or allergic reaction to a substance.

8 (A) Symptoms of anaphylaxis may include shortness of breath,
9 wheezing, difficulty breathing, difficulty talking or swallowing,
10 hives, itching, swelling, shock, or asthma.

11 (B) Causes of anaphylaxis may include, but are not limited to,
12 insect stings or bites, foods, drugs, and other allergens, as well as
13 idiopathic or exercise-induced anaphylaxis.

14 (2) “Epinephrine auto-injector” means a disposable drug delivery
15 system with a spring-activated concealed needle that is designed
16 for emergency administration of epinephrine to provide rapid,
17 convenient first aid for persons suffering from anaphylaxis.

18 (b) Any person described in subdivision (b) of Section
19 1797.197a of the Health and Safety Code who administers an
20 epinephrine auto-injector to another person who appears to be
21 experiencing anaphylaxis at the scene of an emergency situation,
22 in good faith and not for compensation, is not liable for any civil
23 damages resulting from his or her acts or omissions in
24 administering the epinephrine auto-injector, if that person has
25 complied with the requirements and standards of Section 1797.197a
26 of the Health and Safety Code.

27 (c) This section does not grant immunity from civil damages to
28 any person whose conduct in rendering emergency care constitutes
29 gross negligence.

30 (d) In order to encourage training of persons described in
31 subdivision (b) of Section 1797.197a of the Health and Safety
32 Code in the emergency administration of epinephrine
33 auto-injectors, and to encourage that emergency care, a local
34 agency, entity of state or local government, or other public or
35 private organization that sponsors, authorizes, supports, finances,
36 or supervises the training of those persons, or develops standards
37 in accordance with Section 1797.197a of the Health and Safety
38 Code, including, but not limited to, the California Emergency
39 Medical Services (EMS) Authority, the local Emergency Medical
40 System Agency, the county Department of Health, the State

1 Department of Health Care Services, the American Academy of
2 Allergy, Asthma & Immunology, the American Academy of
3 Pediatrics, the American Heart Association, the American Red
4 Cross, and the California Medical Association, shall not be liable
5 for civil damages alleged to result from those training programs
6 or standards.

7 (e) Nothing in this section relieves a manufacturer, designer,
8 developer, distributor, or supplier of an epinephrine auto-injector
9 of liability under any other applicable law.

10 SEC. 3. Section 1797.197a is added to the Health and Safety
11 Code, to read:

12 1797.197a. (a) For purposes of this section, the following
13 definitions shall apply:

14 (1) “Anaphylaxis” means a potentially life-threatening
15 hypersensitivity or allergic reaction to a substance.

16 (A) Symptoms of anaphylaxis may include shortness of breath,
17 wheezing, difficulty breathing, difficulty talking or swallowing,
18 hives, itching, swelling, shock, or asthma.

19 (B) Causes of anaphylaxis may include, but are not limited to,
20 insect stings or bites, foods, drugs, and other allergens, as well as
21 idiopathic or exercise-induced anaphylaxis.

22 (2) “Epinephrine auto-injector” means a disposable drug delivery
23 system with a spring-activated concealed needle that is designed
24 for emergency administration of epinephrine to provide rapid,
25 convenient first aid for persons suffering from anaphylaxis.

26 (3) “First responder” means a police officer, firefighter, rescue
27 worker, or any other person who provides emergency response,
28 first aid care, or other medically related assistance either in the
29 course of the person’s occupational duties or as a volunteer.

30 (4) “Lay rescuer” means any person not otherwise licensed or
31 certified to use an epinephrine auto-injector on another who has
32 met the training standards and other requirements of this section.

33 (5) “Prehospital emergency medical care person” has the same
34 meaning as defined in paragraph (2) of subdivision (a) of Section
35 1797.189.

36 (b) A prehospital emergency medical care person, first
37 responder, or a lay rescuer may use an epinephrine auto-injector
38 to render emergency care to another person if all of the following
39 requirements are met:

1 (1) The epinephrine auto-injector is legally obtained by
2 prescription from an authorized health care provider. An authorized
3 health care provider may issue a prescription for an epinephrine
4 auto-injector to a person described in this subdivision for the
5 purpose of rendering emergency care to another person, upon
6 presentation of current certification demonstrating that person is
7 trained and qualified pursuant to this section to administer an
8 epinephrine auto-injector as a prehospital emergency medical care
9 person, first responder, or lay rescuer.

10 (2) The epinephrine auto-injector is used on another, with the
11 expressed or implied consent of that person, for the indicated
12 purpose described in paragraphs (1) and (2) of subdivision (a).

13 (3) The epinephrine auto-injector is stored and maintained as
14 directed by the manufacturer’s instructions for that product.

15 (4) The person using the auto-injector has successfully
16 completed a course of training with an authorized training provider,
17 as described in subdivision (c), and has current certification of
18 training issued by the provider.

19 (c) (1) The authorized training providers and minimum
20 standards for training and the use and administration of epinephrine
21 auto-injectors pursuant to this section shall be established and
22 approved by the California Emergency Medical Services (EMS)
23 Authority in consultation with the local emergency medical system
24 agency, the county health department, manufacturers, the State
25 Department of Health Care Services, the American Academy of
26 Allergy, Asthma & Immunology, the American Academy of
27 Pediatrics, the American Heart Association, the American Red
28 Cross, and the California Medical Association.

29 (2) The minimum training and requirements shall include all of
30 the following components:

31 (A) Techniques for recognizing circumstances, signs, and
32 symptoms of anaphylaxis.

33 (B) Standards and procedures for proper storage and emergency
34 use of epinephrine auto-injectors.

35 (C) Emergency follow-up procedures, including activation of
36 the Emergency Medical System, by calling the emergency 911
37 telephone number or otherwise alerting and summoning more
38 advanced medical personnel and services.

1 (D) Compliance with all regulations governing the training,
2 indications, use, and precautions concerning epinephrine
3 auto-injectors.

4 (E) Written material covering the information required under
5 this provision, including the manufacturer product information
6 sheets on commonly available models of epinephrine auto-injectors.

7 (F) Completion of a training course in cardiopulmonary
8 resuscitation and the use of an automatic external defibrillator
9 (AED) for infants, children, and adults that complies with
10 regulations adopted by the EMS Authority and the standards of
11 the American Heart Association or the American Red Cross, and
12 a current certification for that training.

13 (G) Training certification for no more than two years, after
14 which recertification with an authorized training provider is
15 required.

16 (3) The minimum standards established and approved pursuant
17 to this subdivision apply to a school district or county office of
18 education, which may adopt more stringent standards for training
19 and the use and emergency administration of epinephrine
20 auto-injectors pursuant to Section 49414 of the Education Code.

21 SEC. 4. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.