

AMENDED IN SENATE APRIL 22, 2013

SENATE BILL

No. 669

Introduced by Senator Huff

February 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 amended, 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 *medical* 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 representatives from a local emergency medical system agency, the services agency and a county health department, the manufacturer~~ *manufacturers*, the State Department of *Public Health Care Services*, and other private organizations. The bill would specify components to be included in the minimum training and requirements. ~~The bill~~ *Under the bill, these provisions would provide that these minimum standards not apply to a school district or county office of education for the emergency administration of education, or its personnel, that provides and utilizes epinephrine auto-injectors, but would permit the adoption of more stringent standards* *auto-injectors to provide emergency medical care, as specified. This bill would provide that nothing in these provisions shall be construed to limit or restrict the ability of prehospital emergency medical care personnel to administer epinephrine, including the use of epinephrine auto-injectors, or to require additional training or certification, if the administration of epinephrine is part of their scope of practice.*

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 *medical* 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 *medical* care person, first responder, or lay rescuer for the purpose
6 of 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 *of*
12 *the Health and Safety Code*. The physician and surgeon may issue
13 the prescription only upon presentation of a current certificate
14 demonstrating that the person is trained and qualified under Section
15 1797.197a of the Health and Safety Code to administer an
16 epinephrine auto-injector to another person in an emergency
17 situation. The prescription shall specify that the dispensed
18 epinephrine auto-injector is for “EMS Purposes Only” and that
19 the named recipient is a “Section 1797.197a Responder.” A new
20 prescription shall be written for any additional epinephrine
21 auto-injectors required.

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

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

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

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

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

3 (b) The person described in subdivision (b) of Section 1797.197a
4 of the Health and Safety Code receiving epinephrine auto-injectors
5 pursuant to this section shall make and maintain a record for five
6 years reflecting dates of receipt, use, and destruction of each
7 auto-injector dispensed, the name of any person to whom
8 epinephrine was administered using an auto-injector, and the
9 circumstances and manner of destruction of any auto-injectors.

10 (c) The epinephrine auto-injectors dispensed pursuant to this
11 section may be used only for the purpose, and under the
12 circumstances, described in Section 1797.197a of the Health and
13 Safety Code.

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

15 1714.23. (a) For purposes of this section, the following
16 definitions shall apply:

17 (1) "Anaphylaxis" means a potentially life-threatening
18 hypersensitivity or allergic reaction to a substance.

19 (A) Symptoms of anaphylaxis may include shortness of breath,
20 wheezing, difficulty breathing, difficulty talking or swallowing,
21 hives, itching, swelling, shock, or asthma.

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

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

29 (b) Any person described in subdivision (b) of Section
30 1797.197a of the Health and Safety Code who administers an
31 epinephrine auto-injector to another person who appears to be
32 experiencing anaphylaxis at the scene of an emergency situation,
33 in good faith and not for compensation, is not liable for any civil
34 damages resulting from his or her acts or omissions in
35 administering the epinephrine auto-injector, if that person has
36 complied with the requirements and standards of Section 1797.197a
37 of the Health and Safety Code.

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

1 (d) In order to encourage training of persons described in
2 subdivision (b) of Section 1797.197a of the Health and Safety
3 Code in the emergency administration of epinephrine
4 auto-injectors, and to encourage that emergency care, a local
5 agency, entity of state or local government, or other public or
6 private organization that sponsors, authorizes, supports, finances,
7 or supervises the training of those persons, or develops standards
8 in accordance with Section 1797.197a of the Health and Safety
9 Code, including, but not limited to, the California Emergency
10 Medical Services (EMS) Authority, the local emergency medical
11 system agency, the county department of health, the State
12 Department of Health Care Services, the American Academy of
13 Allergy, Asthma & Immunology, the American Academy of
14 Pediatrics, the American Heart Association, the American Red
15 Cross, and the California Medical Association, shall not be liable
16 for civil damages alleged to result from those training programs
17 or standards.

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

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

23 1797.197a. (a) For purposes of this section, the following
24 definitions shall apply:

25 (1) "Anaphylaxis" means a potentially life-threatening
26 hypersensitivity or allergic reaction to a substance.

27 (A) Symptoms of anaphylaxis may include shortness of breath,
28 wheezing, difficulty breathing, difficulty talking or swallowing,
29 hives, itching, swelling, shock, or asthma.

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

33 (2) "Epinephrine auto-injector" means a disposable drug delivery
34 system with a spring-activated concealed needle that is designed
35 for emergency administration of epinephrine to provide rapid,
36 convenient first aid for persons suffering from anaphylaxis.

37 (3) "First responder" means a police officer, firefighter, rescue
38 worker, or any other person who provides emergency response,
39 first aid care, or other medically related assistance either in the
40 course of the person's occupational duties or as a volunteer.

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

4 (5) “Prehospital emergency medical care person” has the same
5 meaning as defined in paragraph (2) of subdivision (a) of Section
6 1797.189.

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

11 (1) The epinephrine auto-injector is legally obtained by
12 prescription from an authorized health care provider. An authorized
13 health care provider may issue a prescription for an epinephrine
14 auto-injector to a person described in this subdivision for the
15 purpose of rendering emergency care to another person, upon
16 presentation of current certification demonstrating that person is
17 trained and qualified pursuant to this section to administer an
18 epinephrine auto-injector as a prehospital emergency medical care
19 person, first responder, or lay rescuer.

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

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

25 (4) The person using the *epinephrine* auto-injector has
26 successfully completed a course of training with an authorized
27 training provider, as described in subdivision (c), and has current
28 certification of training issued by the provider.

29 (c) (1) The authorized training providers and minimum
30 standards for training and the use and administration of epinephrine
31 auto-injectors pursuant to this section shall be established and
32 approved by the California Emergency Medical Services (EMS)
33 Authority in consultation with ~~the a representative from a local~~
34 ~~emergency medical-system services agency, the a representative~~
35 ~~from a county health department, manufacturers, the State~~
36 ~~Department of Health-Care Services, Public Health, the American~~
37 ~~Academy of Allergy, Asthma & Immunology, the American~~
38 ~~Academy of Pediatrics, the American Heart Association, the~~
39 ~~American Red Cross, and the California Medical Association.~~

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

3 (A) Techniques for recognizing circumstances, signs, and
4 symptoms of anaphylaxis.

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

7 (C) Emergency followup procedures, including activation of
8 the Emergency Medical System, by calling the emergency 911
9 telephone number or otherwise alerting and summoning more
10 advanced medical personnel and services.

11 (D) Compliance with all regulations governing the training,
12 indications, use, and precautions concerning epinephrine
13 auto-injectors.

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

17 (F) Completion of a training course in cardiopulmonary
18 resuscitation and the use of an automatic external defibrillator
19 (AED) for infants, children, and adults that complies with
20 regulations adopted by the EMS Authority and the standards of
21 the American Heart Association or the American Red Cross, and
22 a current certification for that training.

23 (G) Training certification for no more than two years, after
24 which recertification with an authorized training provider is
25 required.

26 ~~(3) The minimum standards established and approved pursuant
27 to this subdivision apply to a school district or county office of
28 education, which may adopt more stringent standards for training
29 and the use and emergency administration of epinephrine
30 auto-injectors pursuant to Section 49414 of the Education Code.~~

31 *(d) This section shall not apply to a school district or county
32 office of education, or its personnel, that provides and utilizes
33 epinephrine auto-injectors to provide emergency medical aid
34 pursuant to Section 49414 of the Education Code.*

35 *(e) Nothing in this section shall be construed to limit or restrict
36 the ability of prehospital emergency medical care personnel to
37 administer epinephrine, including the use of epinephrine
38 auto-injectors, or to require additional training or certification,
39 if the administration of epinephrine is part of their scope of*

1 *practice, as determined by their respective certifying or licensing*
2 *entity.*

3 SEC. 4. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.