

AMENDED IN SENATE MAY 7, 2013
AMENDED IN SENATE APRIL 22, 2013

SENATE BILL

No. 669

Introduced by Senator Huff
(Coauthors: Senators Gaines and Nielsen)
(Coauthors: Assembly Members Dahle and Maienschein)

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~~ *and* approve authorized training providers and minimum standards for training and the use and administration of epinephrine auto-injectors, in consultation with representatives from a local emergency medical services agency and a county health department, manufacturers, the State Department of Public Health, and other private organizations. The bill would specify components to be included in the minimum training and requirements. Under the bill, these provisions would not apply to a school district or county office of education, or its personnel, that provides and utilizes epinephrine 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, *in good faith and not for compensation*, 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, *except as specified*. 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, *except as specified*.

(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, *in good faith and not for compensation*,
32 to another person who appears to be experiencing anaphylaxis at
33 the scene of an emergency situation, ~~in good faith and not for~~
34 ~~compensation~~, is not liable for any civil damages resulting from
35 his or her acts or omissions in administering the epinephrine
36 auto-injector, if that person has complied with the requirements
37 and standards of Section 1797.197a 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 (c) *The protection specified in subdivision (b) shall not apply*
2 *in a case of personal injury or wrongful death that results from*
3 *the gross negligence or willful or wanton misconduct of the person*
4 *who renders emergency care treatment by the use of an epinephrine*
5 *auto-injector.*

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

23 (2) *The protection specified in paragraph (1) shall not apply*
24 *when it is alleged that the personal injury or wrongful death was*
25 *proximately caused by an authorized training provider's failure*
26 *to meet the minimal statutory training requirements and standards*
27 *established pursuant to subdivision (c) of Section 1797.197a of*
28 *the Health and Safety Code, or it is alleged that the authorized*
29 *training provider otherwise demonstrated gross negligence in the*
30 *training or certification of an individual whose subsequent actions*
31 *caused personal injury or wrongful death in the rendering of*
32 *emergency care treatment by the use of an epinephrine*
33 *auto-injector.*

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

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

39 1797.197a. (a) For purposes of this section, the following
40 definitions shall apply:

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

3 (A) Symptoms of anaphylaxis may include shortness of breath,
4 wheezing, difficulty breathing, difficulty talking or swallowing,
5 hives, itching, swelling, shock, or asthma.

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

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

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

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

20 (4) *“Lay rescuer” means any person who has met the training
21 standards and other requirements of this section but who is not
22 otherwise licensed or certified to use an epinephrine auto-injector
23 on another person.*

24 (5) “Prehospital emergency medical care person” has the same
25 meaning as defined in paragraph (2) of subdivision (a) of Section
26 1797.189.

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

31 (1) The epinephrine auto-injector is legally obtained by
32 prescription from an authorized health care provider. An authorized
33 health care provider may issue a prescription for an epinephrine
34 auto-injector to a person described in this subdivision for the
35 purpose of rendering emergency care to another person, upon
36 presentation of current certification demonstrating that person is
37 trained and qualified pursuant to this section to administer an
38 epinephrine auto-injector as a prehospital emergency medical care
39 person, first responder, or lay rescuer.

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

4 (3) The epinephrine auto-injector is stored and maintained as
5 directed by the manufacturer's instructions for that product.

6 (4) The person using the epinephrine auto-injector has
7 successfully completed a course of training with an authorized
8 training provider, as described in subdivision (c), and has current
9 certification of training issued by the provider.

10 (c) (1) The authorized training providers and minimum
11 standards for training and the use and administration of epinephrine
12 auto-injectors pursuant to this section shall be established and
13 approved by the California Emergency Medical Services (EMS)
14 Authority in consultation with a representative from a local
15 emergency medical services agency, a representative from a county
16 health department, manufacturers, the State Department of Public
17 Health, the American Academy of Allergy, Asthma &
18 Immunology, the American Academy of Pediatrics, the American
19 Heart Association, the American Red Cross, and the California
20 Medical Association.

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

23 (A) Techniques for recognizing circumstances, signs, and
24 symptoms of anaphylaxis.

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

27 (C) Emergency followup procedures, including activation of
28 the Emergency Medical System, by calling the emergency 911
29 telephone number or otherwise alerting and summoning more
30 advanced medical personnel and services.

31 (D) Compliance with all regulations governing the training,
32 indications, use, and precautions concerning epinephrine
33 auto-injectors.

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

37 (F) Completion of a training course in cardiopulmonary
38 resuscitation and the use of an automatic external defibrillator
39 (AED) for infants, children, and adults that complies with
40 regulations adopted by the EMS Authority and the standards of

1 the American Heart Association or the American Red Cross, and
2 a current certification for that training.

3 (G) Training certification for no more than two years, after
4 which recertification with an authorized training provider is
5 required.

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

10 (e) Nothing in this section shall be construed to limit or restrict
11 the ability of prehospital emergency medical care personnel to
12 administer epinephrine, including the use of epinephrine
13 auto-injectors, or to require additional training or certification, if
14 the administration of epinephrine is part of their scope of practice,
15 as determined by their respective certifying or licensing entity.

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