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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,~~ *person* 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 approve authorized training providers and to establish and approve minimum standards for training and the use and administration of epinephrine auto-injectors. The bill would specify components to be included in the minimum training and requirements. ~~Under the bill, these~~ *The bill would authorize the director of the authority to deny, suspend, or revoke any approval or place any approved training provider on probation upon a finding by the director of an imminent threat to public health and safety, as prescribed. The bill would create the Specialized First Aid Training Program Approval Fund, and require the authority to assess a fee, to be deposited into the fund, to cover the reasonable costs incurred by the authority for the ongoing review and approval of training and certification.*

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~~ *The 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,~~ *person* 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. *The bill would require epinephrine auto-injectors obtained by prehospital emergency medical care personnel to be used only when functioning outside the course of the person's occupational duties, or as a volunteer, as specified.*

(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,~~ *person* 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 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,~~ *person* or lay rescuer for the
6 purpose of rendering emergency care in accordance with Section
7 1797.197a 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

1 epinephrine auto-injector to another person in an emergency
 2 situation. The prescription shall specify that the dispensed
 3 epinephrine auto-injector is for ~~“EMS~~ *“First Aid Purposes Only”*
 4 and that the named recipient is a *“Section 1797.197a Responder.”*
 5 A new prescription shall be written for any additional epinephrine
 6 auto-injectors required.

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

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

10 (ii) The designations *“Section 1797.197a Responder”* and ~~“EMS~~
 11 *“First Aid Purposes Only.”*

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

13 (B) Each dispensed prescription shall include the manufacturer’s
 14 product information sheet for the epinephrine auto-injector.

15 (b) The person described in subdivision (b) of Section 1797.197a
 16 of the Health and Safety Code receiving epinephrine auto-injectors
 17 pursuant to this section shall make and maintain a record for five
 18 years reflecting dates of receipt, use, and destruction of each
 19 auto-injector dispensed, the name of any person to whom
 20 epinephrine was administered using an auto-injector, and the
 21 circumstances and manner of destruction of any auto-injectors.

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

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

27 1714.23. (a) For purposes of this section, the following
 28 definitions shall apply:

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

31 (A) Symptoms of anaphylaxis may include shortness of breath,
 32 wheezing, difficulty breathing, difficulty talking or swallowing,
 33 hives, itching, swelling, shock, or asthma.

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

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

1 (b) Any person described in subdivision (b) of Section
2 1797.197a of the Health and Safety Code who administers an
3 epinephrine auto-injector, in good faith and not for compensation,
4 to another person who appears to be experiencing anaphylaxis at
5 the scene of an emergency situation is not liable for any civil
6 damages resulting from his or her acts or omissions in
7 administering the epinephrine auto-injector, if that person has
8 complied with the requirements and standards of Section 1797.197a
9 of the Health and Safety Code.

10 (c) The protection specified in subdivision (b) shall not apply
11 in a case of personal injury or wrongful death that results from the
12 gross negligence or willful or wanton misconduct of the person
13 who renders emergency care treatment by the use of an epinephrine
14 auto-injector.

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

32 ~~(2) The protection specified in paragraph (1) shall not apply~~
33 ~~when it is alleged that the personal injury or wrongful death was~~
34 ~~proximately caused by an authorized training provider's failure to~~
35 ~~meet the minimal statutory training requirements and standards~~
36 ~~established pursuant to subdivision (c) of Section 1797.197a of~~
37 ~~the Health and Safety Code, or it is alleged that the authorized~~
38 ~~training provider otherwise demonstrated gross negligence in the~~
39 ~~training or certification of an individual whose subsequent actions~~
40 ~~caused personal injury or wrongful death in the rendering of~~

1 emergency care treatment by the use of an epinephrine
2 auto-injector.

3 (e)

4 (d) Nothing in this section relieves a manufacturer, designer,
5 developer, distributor, or supplier of an epinephrine auto-injector
6 of liability under any other applicable law.

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

9 1797.197a. (a) For purposes of this section, the following
10 definitions shall apply:

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

13 (A) Symptoms of anaphylaxis may include shortness of breath,
14 wheezing, difficulty breathing, difficulty talking or swallowing,
15 hives, itching, swelling, shock, or asthma.

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

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

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

27 (4)

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

32 (5)

33 (4) “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 person or~~ lay rescuer may use an epinephrine
38 auto-injector to render emergency care to another person if all of
39 the following 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, person or lay-rescuer rescuer, pursuant to~~
10 *this section or any other statute or regulation.*

11 (2) The epinephrine auto-injector is used on another, with the
12 expressed or implied consent of that person, to ~~address the~~
13 ~~conditions described in subparagraph (A) of paragraph (1) of~~
14 ~~subdivision (a) treat anaphylaxis.~~

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

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

21 (5) *The epinephrine auto-injectors obtained by prehospital*
22 *emergency medical care personnel pursuant to Section 4119.3 of*
23 *the Business and Professions Code shall be used only when*
24 *functioning outside the course of the person's occupational duties,*
25 *or as a volunteer, pursuant to this section.*

26 (6) *The Emergency Medical Services System is activated as*
27 *soon as practicable when an epinephrine auto-injector is used.*

28 (c) (1) The authorized training providers shall be approved,
29 and the minimum standards for training and the use and
30 administration of epinephrine auto-injectors pursuant to this section
31 shall be established and approved, by the California Emergency
32 Medical Services (EMS) Authority. The authority may designate
33 existing training standards for the use and administration of
34 epinephrine auto-injectors by ~~first responders and~~ prehospital
35 emergency medical care personnel to satisfy the requirements of
36 this section.

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

39 (A) Techniques for recognizing circumstances, signs, and
40 symptoms of anaphylaxis.

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

3 (C) Emergency followup procedures, including activation of
4 the Emergency Medical *Services* System, by calling the emergency
5 911 9-1-1 telephone number or otherwise alerting and summoning
6 more advanced medical personnel and services.

7 (D) Compliance with all regulations governing the training,
8 indications, use, and precautions concerning epinephrine
9 auto-injectors.

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

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

19 (3) Training certification shall be valid for no more than two
20 years, after which recertification with an authorized training
21 provider is required.

22 (4) *The director of the authority may, in accordance with*
23 *regulations adopted by the authority, deny, suspend, or revoke any*
24 *approval issued under this subdivision or may place any approved*
25 *training provider on probation upon a finding by the director of*
26 *an imminent threat to public health and safety, as evidenced by*
27 *any of the following:*

28 (A) *Fraud.*

29 (B) *Incompetence.*

30 (C) *The commission of any fraudulent, dishonest, or corrupt*
31 *act that is substantially related to the qualifications, functions, or*
32 *duties of training program directors or instructors.*

33 (D) *Conviction of any crime that is substantially related to the*
34 *qualifications, functions, or duties of training program directors*
35 *or instructors. The record of conviction or a certified copy of the*
36 *record shall be conclusive evidence of the conviction.*

37 (E) *Violating or attempting to violate, directly or indirectly, or*
38 *assisting in or abetting the violation of, or conspiring to violate,*
39 *any provision of this section or the regulations promulgated by*
40 *the authority pertaining to the review and approval of training*

1 *programs in anaphylaxis and the use and administration of*
2 *epinephrine auto-injectors, as described in this subdivision.*

3 *(d) (1) The authority shall assess a fee pursuant to regulation*
4 *sufficient to cover the reasonable costs incurred by the authority*
5 *for the ongoing review and approval of training and certification*
6 *under subdivision (c).*

7 *(2) The fees shall be deposited in the Specialized First Aid*
8 *Training Program Approval Fund, which is hereby created in the*
9 *State Treasury. All moneys deposited in the fund shall be made*
10 *available, upon appropriation, to the authority for purposes*
11 *described in paragraph (1).*

12 *(3) The authority may transfer unused portions of the Specialized*
13 *First Aid Training Program Approval Fund to the Surplus Money*
14 *Investment Fund. Funds transferred to the Surplus Money*
15 *Investment Fund shall be placed in a separate trust account, and*
16 *shall be available for transfer to the Specialized First Aid Training*
17 *Program Approval Fund, together with the interest earned, when*
18 *requested by the authority.*

19 *(4) The authority shall maintain a reserve balance in the*
20 *Specialized First Aid Training Program Approval Fund of 5*
21 *percent of annual revenues. Any increase in the fees deposited in*
22 *the Specialized First Aid Training Program Approval Fund shall*
23 *be effective upon determination by the authority that additional*
24 *moneys are required to fund expenditures pursuant to subdivision*
25 *(c).*

26 ~~(d)~~

27 *(e) This section shall not apply to a school district or county*
28 *office of education, or its personnel, that provides and utilizes*
29 *epinephrine auto-injectors to provide emergency medical aid*
30 *pursuant to Section 49414 of the Education Code.*

31 ~~(e)~~

32 *(f) This section shall not be construed to limit or restrict the*
33 *ability of prehospital emergency medical care personnel, under*
34 *any other statute or regulation, to administer epinephrine, including*
35 *the use of epinephrine auto-injectors, or to require additional*
36 *training or certification beyond what is already required under the*
37 *other statute or regulation.*

38 **SEC. 4.** No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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