

Senate Bill No. 669

Passed the Senate September 10, 2013

Secretary of the Senate

Passed the Assembly September 9, 2013

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 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. 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. 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 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 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.

(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.

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

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

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

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

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

- (i) The name of the person to whom the prescription was issued.
- (ii) The designations “Section 1797.197a Responder” and “First Aid Purposes Only.”
- (iii) The dosage, use, and expiration date.

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

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

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

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

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

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

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

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

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

(b) Any person described in subdivision (b) of Section 1797.197a of the Health and Safety Code 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 the requirements and standards of Section 1797.197a of the Health and Safety Code.

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

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

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

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

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

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

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

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

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

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

(b) A prehospital emergency medical care person or lay rescuer may use an epinephrine auto-injector to render emergency care to another person if all of the following requirements are met:

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

(2) The epinephrine auto-injector is used on another, with the expressed or implied consent of that person, to treat anaphylaxis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Fraud.

(B) Incompetence.

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

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

(E) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this section or the regulations promulgated by the authority pertaining to the review and approval of training programs in anaphylaxis and the use and administration of epinephrine auto-injectors, as described in this subdivision.

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

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

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

(4) The authority shall maintain a reserve balance in the Specialized First Aid Training Program Approval Fund of 5 percent of annual revenues. Any increase in the fees deposited in the

Specialized First Aid Training Program Approval Fund shall be effective upon determination by the authority that additional moneys are required to fund expenditures pursuant to subdivision (c).

(e) This section shall 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 aid pursuant to Section 49414 of the Education Code.

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

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

Approved _____, 2013

Governor