

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 38, Page
2 9, Section 195.070, Line 27, by inserting after all of said section and line the following:

3
4 "196.990. 1. As used in this section, the following terms shall mean:

5 (1) "Administer", the direct application of an epinephrine auto-injector to the body of an
6 individual;

7 (2) "Authorized entity", any entity or organization at or in connection with which allergens
8 capable of causing anaphylaxis may be present, including but not limited to restaurants, recreation
9 camp, youth sports leagues, amusement parks, and sports arenas;

10 (3) "Caretaker", a person or entity under whose care a child has been entrusted by such child's
11 parent or guardian for consideration;

12 (4) "Epinephrine auto-injector", a single-use device used for the automatic injection of a
13 premeasured dose of epinephrine into the human body;

14 (5) "Physician", a physician licensed in this state under chapter 334;

15 (6) "Provide", the supply of one or more epinephrine auto-injectors to an individual;

16 (7) "Self-administration", a person's discretionary use of an epinephrine auto-injector.

17 2. A physician may prescribe epinephrine auto-injectors in the name of an authorized entity
18 for use in accordance with this section, and pharmacists, physicians, and other persons authorized to
19 dispense prescription medications may dispense epinephrine auto-injectors under a prescription
20 issued in the name of an authorized entity.

21 3. An authorized entity may acquire and stock a supply of epinephrine auto-injectors under a
22 prescription issued in accordance with this section. Such epinephrine auto-injectors shall be stored
23 in a location readily accessible in an emergency and in accordance with the epinephrine
24 auto-injector's instructions for use and any additional requirements established by the department of
25 health and senior services by rule. An authorized entity shall designate employees or agents who
26 have completed the training required under this section to be responsible for the storage,
27 maintenance, and general oversight of epinephrine auto-injectors acquired by the authorized entity.

28 4. An employee or agent of an authorized entity or any other person who has completed the
29 training required under this section may use epinephrine auto-injectors prescribed under this section
30 on the premises of or in connection with the authorized entity to:

31 (1) Provide an epinephrine auto-injector to any individual who the employee, agent, or other
32 person believes in good faith is experiencing anaphylaxis for immediate self-administration,
33 regardless of whether the individual has a prescription for an epinephrine auto-injector or has
34 previously been diagnosed with an allergy;

35 (2) Administer an epinephrine auto-injector to any individual who the employee, agent, or
36 other person believes in good faith is experiencing anaphylaxis, regardless of whether the individual

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1 has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

2 5. Notwithstanding the provisions of subsection 4 of this section, an employee or agent of an
3 authorized entity shall not provide or administer an epinephrine auto-injector to any individual who
4 is twelve years of age or younger without the verbal consent of a parent or guardian who is present at
5 the time when provision or administration of the epinephrine auto-injector is needed. Provided,
6 however, that an employee or agent of an authorized entity may provide or administer an epinephrine
7 auto-injector to such an individual without the consent of a parent or guardian if the parent or
8 guardian is not physically present and the employee or agent reasonably believes the individual shall
9 be in imminent danger without the provision or administration of the epinephrine auto-injector.

10 6. An employee, agent, or other person described in subsection 4 of this section shall
11 successfully complete an anaphylaxis training program prior to providing or administering an
12 epinephrine auto-injector made available by an authorized entity and at least every two years
13 following successful completion of the initial anaphylaxis training program. Such training shall be
14 conducted by a nationally recognized organization experienced in training laypersons in emergency
15 health treatment or other entity or person approved by the department of health and senior services.
16 Training may be conducted online or in person and, at a minimum, shall cover:

17 (1) Techniques on how to recognize symptoms of severe allergic reactions, including
18 anaphylaxis;

19 (2) Standards and procedures for the storage and administration of an epinephrine
20 auto-injector; and

21 (3) Emergency follow-up procedures.

22 The entity that conducts the training shall issue a certificate, on a form developed or approved by the
23 department of health and senior services, to each person who successfully completes the anaphylaxis
24 training program.

25 7. The following persons and entities shall not be liable for any injuries or related damages
26 that result from the administration of, self-administration of, or failure to administer an epinephrine
27 auto-injector in accordance with this section that may constitute ordinary negligence:

28 (1) An authorized entity that possesses and makes available epinephrine auto-injectors and
29 its employees, agents, and other trained persons;

30 (2) Any person who uses an epinephrine auto-injector made available under this section;

31 (3) A physician that prescribes epinephrine auto-injectors to an authorized entity; or

32 (4) Any person or entity that conducts the training described in subsection 6 of this section.

33 Such immunity does not apply to acts or omissions constituting a reckless disregard for the safety of
34 others or willful or wanton conduct. The administration of an epinephrine auto-injector in
35 accordance with this section shall not be considered the practice of medicine. The immunity from
36 liability provided under this subsection is in addition to and not in lieu of that provided under section
37 537.037. An authorized entity located in this state shall not be liable for any injuries or related
38 damages that result from the provision or administration of an epinephrine auto-injector by its
39 employees or agents outside of this state if the entity or its employee or agent are not liable for such
40 injuries or related damages under the laws of the state in which such provision or administration
41 occurred.

42 8. No immunity provided under this section shall apply to a caretaker if the individual who
43 experienced anaphylaxis:

44 (1) Was a minor child;

45 (2) Had a known allergy at the time of anaphylaxis;

46 (3) Was under the care or supervision of a caretaker other than a parent or guardian;

47 (4) Was prescribed an epinephrine auto-injector;

48 (5) Was not administered an epinephrine auto-injector by a caretaker; and

1 (6) Had an epinephrine auto-injector available to him or her at the time of anaphylaxis due to
2 one of following:

3 (a) The minor child being in possession of his or her epinephrine auto-injector, an
4 epinephrine auto-injector present on the premises where the anaphylaxis occurred, or the caretaker
5 being in possession of an epinephrine auto-injector;

6 (b) The parent of guardian of the minor child providing an epinephrine auto-injector to the
7 caretaker; or

8 (c) The caretaker representing to the parent of guardian of the minor child that an epinephrine
9 auto-injector is available on the premises where the anaphylaxis occurred.

10 9. No immunity provided under this section shall apply to any licensed health care provider if
11 the administration of an epinephrine auto-injector is within his or her scope of practice except when
12 the alleged liability is based upon:

13 (1) Such provider's actions in prescribing or dispensing the prescription; or

14 (2) Such provider's action in providing training to authorized entities under this section.

15 10. An authorized entity that possesses and makes available epinephrine auto-injectors shall
16 submit to the department of health and senior services, on a form developed by the department, a
17 report of each incident on the authorized entity's premises involving the administration of an
18 epinephrine auto-injector. The department shall annually publish a report that summarizes all reports
19 submitted to it under this subsection, but shall not include any identifying information regarding the
20 persons to whom such epinephrine auto-injectors were administered.

21 11. An authorized entity that acquires a stock supply of epinephrine auto-injectors under a
22 prescription issued in accordance with this section may make such epinephrine auto-injectors
23 available to individuals other than the trained persons described in subsection 4 of this section if the
24 epinephrine auto-injectors are stored in a locked secure container in accordance with manufacturer
25 specifications and are made available only upon remote authorization by a physician via audio,
26 televideo, or other similar means of electronic communication. Consultation with a physician for
27 such purpose shall not be considered the practice of telemedicine or otherwise be construed as
28 violating any law or rule regulating the physician's professional practice."; and

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30 Further amend said bill by amending the title, enacting clause, and intersectional references
31 accordingly.
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