

SECOND REGULAR SESSION

HOUSE BILL NO. 2364

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE EALY.

3229H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 196.990, RSMo, and to enact in lieu thereof two new sections relating to allergies in child care facilities.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 196.990, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 196.990 and 210.225, to read as follows:

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

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

(2) "Authorized entity", any entity or organization at or in connection with which allergens capable of causing anaphylaxis may be present including, but not limited to, qualified first responders, as such term is defined in section 321.621, restaurants, recreation camps, youth sports leagues, **child care facilities**, amusement parks, and sports arenas. "Authorized entity" shall not include any public school or public charter school;

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

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

26 4. An authorized entity that acquires a supply of epinephrine auto-injectors under a
27 prescription issued in accordance with this section shall ensure that:

28 (1) Expected epinephrine auto-injector users receive training in recognizing
29 symptoms of severe allergic reactions including anaphylaxis and the use of epinephrine
30 auto-injectors from a nationally recognized organization experienced in training laypersons in
31 emergency health treatment or another entity or person approved by the department of health
32 and senior services;

33 (2) All epinephrine auto-injectors are maintained and stored according to the
34 epinephrine auto-injector's instructions for use;

35 (3) Any person who provides or administers an epinephrine auto-injector to an
36 individual who the person believes in good faith is experiencing anaphylaxis activates the
37 emergency medical services system as soon as possible; and

38 (4) A proper review of all situations in which an epinephrine auto-injector is used to
39 render emergency care is conducted.

40 5. Any authorized entity that acquires a supply of epinephrine auto-injectors under a
41 prescription issued in accordance with this section shall notify the emergency
42 communications district or the ambulance dispatch center of the primary provider of
43 emergency medical services where the epinephrine auto-injectors are to be located within the
44 entity's facility.

45 6. No person shall provide or administer an epinephrine auto-injector to any
46 individual who is under eighteen years of age without the verbal consent of a parent or
47 guardian who is present at the time when provision or administration of the epinephrine auto-
48 injector is needed. Provided, however, that a person may provide or administer an
49 epinephrine auto-injector to such an individual without the consent of a parent or guardian if
50 the parent or guardian is not physically present and the person reasonably believes the
51 individual shall be in imminent danger without the provision or administration of the
52 epinephrine auto-injector.

53 7. The following persons and entities shall not be liable for any injuries or related
54 damages that result from the administration or self-administration of an epinephrine auto-
55 injector in accordance with this section that may constitute ordinary negligence:

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

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

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

61 (4) Any person or entity that conducts the training described in this section.

62

63 Such immunity does not apply to acts or omissions constituting a reckless disregard for the
64 safety of others or willful or wanton conduct. The administration of an epinephrine auto-
65 injector in accordance with this section shall not be considered the practice of medicine. The
66 immunity from liability provided under this subsection is in addition to and not in lieu of that
67 provided under section 537.037. An authorized entity located in this state shall not be liable
68 for any injuries or related damages that result from the provision or administration of an
69 epinephrine auto-injector by its employees or agents outside of this state if the entity or its
70 employee or agent is not liable for such injuries or related damages under the laws of the state
71 in which such provision or administration occurred. No trained person who is in compliance
72 with this section and who in good faith and exercising reasonable care fails to administer an
73 epinephrine auto-injector shall be liable for such failure.

74 8. All basic life support ambulances and stretcher vans operated in the state shall be
75 equipped with epinephrine auto-injectors and be staffed by at least one individual trained in
76 the use of epinephrine auto-injectors.

77 9. The provisions of this section shall apply in all counties within the state and any
78 city not within a county.

79 10. Nothing in this section shall be construed as superseding the provisions of section
80 167.630.

**210.225. 1. (1) Before July 1, 2026, each licensed child care provider shall adopt
2 a policy on allergy prevention and response with priority given to addressing potentially
3 deadly food-borne allergies. Such policy shall contain, but shall not be limited to, the
4 following elements:**

5 **(a) Distinguishing between building-wide, room-level, and individual approaches
6 to allergy prevention and management;**

7 **(b) Providing an age-appropriate response to building-level and room-level
8 allergy education and prevention;**

9 **(c) Describing the role of child care facility staff in determining how to manage**
10 **an allergy problem, whether through a plan prepared for a child under Section 504 of**
11 **the Rehabilitation Act of 1973, as amended, for a child with an allergy that has been**
12 **determined to be a disability, an individualized health plan for a child who has an**
13 **allergy that is not disabling, or another allergy management plan;**

14 **(d) Describing the role of other children and parents in cooperating to prevent**
15 **and mitigate allergies;**

16 **(e) Addressing confidentiality issues involved with sharing medical information,**
17 **including specifying when parental permission is required to make medical information**
18 **available; and**

19 **(f) Coordinating with the department of elementary and secondary education,**
20 **local health authorities, and other appropriate entities to ensure efficient promulgation**
21 **of accurate information and to ensure that existing child care facility safety and**
22 **environmental policies do not conflict.**

23 **(2) Such policies may contain information from or links to child care facility**
24 **allergy prevention information furnished by the food allergy and anaphylaxis network**
25 **or equivalent organization with a medical advisory board that has allergy specialists.**

26 **2. The department of elementary and secondary education shall, in cooperation**
27 **with any appropriate professional association, develop a model policy or policies before**
28 **July 1, 2025.**

✓