

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NOS. 1826, 2560, 2349 & 2194

103RD GENERAL ASSEMBLY

3915H.02P

JOSEPH ENGLER, Chief Clerk

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## AN ACT

To repeal sections 167.627, 167.630, 190.246, 196.990, and 321.621, RSMo, and to enact in lieu thereof five new sections relating to epinephrine delivery systems, with penalty provisions.

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

Section A. Sections 167.627, 167.630, 190.246, 196.990, and 321.621, RSMo, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections 167.627,  
3 167.630, 190.246, 196.990, and 321.621, to read as follows:

167.627. 1. For purposes of this section, the following terms shall mean:

2 (1) **"Epinephrine delivery system", a single-use device or system used for the**  
3 **delivery of a premeasured dose of epinephrine into the human body;**

4 (2) "Medication", any medicine prescribed or ordered by a physician for the treatment  
5 of asthma or anaphylaxis, including without limitation inhaled bronchodilators and [~~auto-~~  
6 ~~injectible~~] epinephrine **delivery systems;**

7 [~~2~~] (3) "Self-administration", a pupil's discretionary use of medication prescribed by  
8 a physician or under a written treatment plan from a physician.

9 2. Each board of education and its employees and agents in this state shall grant any  
10 pupil in the school authorization for the possession and self-administration of medication to  
11 treat such pupil's chronic health condition, including but not limited to asthma or anaphylaxis  
12 if:

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.

13 (1) A licensed physician prescribed or ordered such medication for use by the pupil  
14 and instructed such pupil in the correct and responsible use of such medication;

15 (2) The pupil has demonstrated to the pupil's licensed physician or the licensed  
16 physician's designee, and the school nurse, if available, the skill level necessary to use the  
17 medication and any device **or system** necessary to administer such medication prescribed or  
18 ordered;

19 (3) The pupil's physician has approved and signed a written treatment plan for  
20 managing the pupil's chronic health condition, including asthma or anaphylaxis episodes and  
21 for medication for use by the pupil. Such plan shall include a statement that the pupil is  
22 capable of self-administering the medication under the treatment plan;

23 (4) The pupil's parent or guardian has completed and submitted to the school any  
24 written documentation required by the school, including the treatment plan required under  
25 subdivision (3) of this subsection and the liability statement required under subdivision (5) of  
26 this subsection; and

27 (5) The pupil's parent or guardian has signed a statement acknowledging that the  
28 school district and its employees or agents shall incur no liability as a result of any injury  
29 arising from the self-administration of medication by the pupil or the administration of such  
30 medication by school staff. Such statement shall not be construed to release the school  
31 district and its employees or agents from liability for negligence.

32 3. An authorization granted under subsection 2 of this section shall:

33 (1) Permit such pupil to possess and self-administer such pupil's medication while in  
34 school, at a school-sponsored activity, and in transit to or from school or school-sponsored  
35 activity; and

36 (2) Be effective only for the same school and school year for which it is granted.  
37 Such authorization shall be renewed by the pupil's parent or guardian each subsequent school  
38 year in accordance with this section.

39 4. Any current duplicate prescription medication, if provided by a pupil's parent or  
40 guardian or by the school, shall be kept at a pupil's school in a location at which the pupil or  
41 school staff has immediate access in the event of an asthma or anaphylaxis emergency.

42 5. The information described in subdivisions (3) and (4) of subsection 2 of this  
43 section shall be kept on file at the pupil's school in a location easily accessible in the event of  
44 an emergency.

167.630. 1. **As used in this section, the term "epinephrine delivery system" has  
2 the same meaning given to the term in section 167.627.**

3 2. Each school board may authorize a school nurse licensed under chapter 335 who is  
4 employed by the school district and for whom the board is responsible for to maintain an  
5 adequate supply of ~~[prefilled auto-syringes of]~~ epinephrine ~~[with fifteen-hundredths milligram~~

6 ~~or three-tenths milligram]~~ delivery **systems** at the school. The nurse shall recommend to the  
7 school board the number of [~~prefilled~~] epinephrine [~~auto-syringes~~] **delivery systems** that the  
8 school should maintain.

9       [2-] **3.** To obtain [~~prefilled~~] epinephrine [~~auto-syringes~~] **delivery systems** for a school  
10 district, a prescription written by a licensed physician, a physician's assistant, or nurse  
11 practitioner is required. For such prescriptions, the school district shall be designated as the  
12 patient, the nurse's name shall be required, and the prescription shall be filled at a licensed  
13 pharmacy.

14       [3-] **4.** A school nurse, contracted agent trained by a nurse, or other school employee  
15 trained by and supervised by the nurse shall have the discretion to use an epinephrine [~~auto~~  
16 ~~syringe~~] **delivery system** on any student the school nurse, trained employee, or trained  
17 contracted agent believes is having a life-threatening anaphylactic reaction based on the  
18 training in recognizing an acute episode of an anaphylactic reaction. The provisions of  
19 section 167.624 concerning immunity from civil liability for trained employees administering  
20 lifesaving methods shall apply to trained employees administering [~~a prefilled auto-syringe~~]  
21 **an epinephrine delivery system** under this section. Trained contracted agents shall have  
22 immunity from civil liability for administering [~~a prefilled auto-syringe~~] **an epinephrine**  
23 **delivery system** under this section.

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

2       (1) "Eligible person, firm, organization or other entity", an ambulance service or  
3 emergency medical response agency, an emergency medical responder, or an emergency  
4 medical technician who is employed by, or an enrolled member, person, firm, organization or  
5 entity designated by, rule of the department of health and senior services in consultation with  
6 other appropriate agencies. All such eligible persons, firms, organizations or other entities  
7 shall be subject to the rules promulgated by the director of the department of health and senior  
8 services;

9       (2) "Emergency health care provider":

10       (a) A physician licensed pursuant to chapter 334 with knowledge and experience in  
11 the delivery of emergency care; or

12       (b) A hospital licensed pursuant to chapter 197 that provides emergency care;

13       **(3) "Epinephrine delivery system", a single-use device or system used for the**  
14 **delivery of a premeasured dose of epinephrine into the human body.**

15       2. Possession and use of epinephrine [~~auto-injector devices~~] **delivery systems** shall  
16 be limited as follows:

17       (1) No person shall use an epinephrine [~~auto-injector device~~] **delivery system** unless  
18 such person has successfully completed a training course in the use of epinephrine [~~auto-~~  
19 ~~injector devices~~] **delivery systems** approved by the director of the department of health and

20 senior services. Nothing in this section shall prohibit the use of an epinephrine ~~[auto-injector~~  
21 ~~device]~~ **delivery system**:

22 (a) By a health care professional licensed or certified by this state who is acting  
23 within the scope of his or her practice; or

24 (b) By a person acting pursuant to a lawful prescription;

25 (2) Every person, firm, organization and entity authorized to possess and use  
26 epinephrine ~~[auto-injector devices]~~ **delivery systems** pursuant to this section shall use,  
27 maintain and dispose of such ~~[devices]~~ **systems** in accordance with the rules of the  
28 department; **and**

29 (3) Every use of an epinephrine ~~[auto-injector device]~~ **delivery system** pursuant to  
30 this section shall immediately be reported to the emergency health care provider.

31 3. (1) Use of an epinephrine ~~[auto-injector device]~~ **delivery system** pursuant to this  
32 section shall be considered first aid or emergency treatment for the purpose of any law  
33 relating to liability.

34 (2) Purchase, acquisition, possession or use of an epinephrine ~~[auto-injector device]~~  
35 **delivery system** pursuant to this section shall not constitute the unlawful practice of medicine  
36 or the unlawful practice of a profession.

37 (3) Any person otherwise authorized to sell or provide an epinephrine ~~[auto-injector~~  
38 ~~device]~~ **delivery system** may sell or provide it to a person authorized to possess it pursuant to  
39 this section.

40 4. Any person, firm, organization or entity that violates the provisions of this section  
41 is guilty of a class B misdemeanor.

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

2 (1) "Administer", the direct application of an epinephrine ~~[auto-injector]~~ **delivery**  
3 **system** to the body of an individual;

4 (2) "Authorized entity", any entity or organization at or in connection with which  
5 allergens capable of causing anaphylaxis may be present including, but not limited to,  
6 qualified first responders, as such term is defined in section 321.621, **facilities licensed**  
7 **under chapter 198**, restaurants, recreation camps, youth sports leagues, **child care facilities**,  
8 amusement parks, and sports arenas. "Authorized entity" shall not include any public school  
9 or public charter school;

10 (3) "Epinephrine ~~[auto-injector]~~ **delivery system**", a single-use device **or system**  
11 used for the ~~[automatic injection]~~ **delivery** of a premeasured dose of epinephrine into the  
12 human body;

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

14 (5) "Provide", the supply of one or more epinephrine ~~[auto-injectors]~~ **delivery**  
15 **systems** to an individual;

16 (6) "Self-administration", a person's discretionary use of an epinephrine [~~auto-~~  
17 ~~injector~~] **delivery system**.

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

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

32 4. An authorized entity that acquires a supply of epinephrine [~~auto-injectors~~] **delivery**  
33 **systems** under a prescription issued in accordance with this section shall ensure that:

34 (1) Expected epinephrine [~~auto-injector~~] **delivery system** users receive training in  
35 recognizing symptoms of severe allergic reactions including anaphylaxis and the use of  
36 epinephrine [~~auto-injectors~~] **delivery systems** from a nationally recognized organization  
37 experienced in training laypersons in emergency health treatment or another entity or person  
38 approved by the department of health and senior services;

39 (2) All epinephrine [~~auto-injectors~~] **delivery systems** are maintained and stored  
40 according to the epinephrine [~~auto-injector's~~] **delivery system's** instructions for use;

41 (3) Any person who provides or administers an epinephrine [~~auto-injector~~] **delivery**  
42 **system** to an individual who the person believes in good faith is experiencing anaphylaxis  
43 activates the emergency medical services system as soon as possible; and

44 (4) A proper review of all situations in which an epinephrine [~~auto-injector~~] **delivery**  
45 **system** is used to render emergency care is conducted.

46 5. Any authorized entity that acquires a supply of epinephrine [~~auto-injectors~~]  
47 **delivery systems** under a prescription issued in accordance with this section shall notify the  
48 emergency communications district or the ambulance dispatch center of the primary provider  
49 of emergency medical services where the epinephrine [~~auto-injectors~~] **delivery systems** are to  
50 be located within the entity's facility.

51 6. No person shall provide or administer an epinephrine [~~auto-injector~~] **delivery**  
52 **system** to any individual who is under eighteen years of age without the verbal consent of a

53 parent or guardian who is present at the time when provision or administration of the  
54 epinephrine ~~[auto-injector]~~ **delivery system** is needed. Provided, however, that a person may  
55 provide or administer an epinephrine ~~[auto-injector]~~ **delivery system** to such an individual  
56 without the consent of a parent or guardian if the parent or guardian is not physically present  
57 and the person reasonably believes the individual shall be in imminent danger without the  
58 provision or administration of the epinephrine ~~[auto-injector]~~ **delivery system**.

59 7. The following persons and entities shall not be liable for any injuries or related  
60 damages that result from the administration or self-administration of an epinephrine ~~[auto-~~  
61 ~~injector]~~ **delivery system** in accordance with this section that may constitute ordinary  
62 negligence:

63 (1) An authorized entity that possesses and makes available epinephrine ~~[auto-~~  
64 ~~injectors]~~ **delivery systems** and its employees, agents, and other trained persons;

65 (2) Any person who uses an epinephrine ~~[auto-injector]~~ **delivery system** made  
66 available under this section;

67 (3) A physician that prescribes epinephrine ~~[auto-injectors]~~ **delivery systems** to an  
68 authorized entity; or

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

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71 Such immunity does not apply to acts or omissions constituting a reckless disregard for the  
72 safety of others or willful or wanton conduct. The administration of an epinephrine ~~[auto-~~  
73 ~~injector]~~ **delivery system** in accordance with this section shall not be considered the practice  
74 of medicine. The immunity from liability provided under this subsection is in addition to and  
75 not in lieu of that provided under section 537.037. An authorized entity located in this state  
76 shall not be liable for any injuries or related damages that result from the provision or  
77 administration of an epinephrine ~~[auto-injector]~~ **delivery system** by its employees or agents  
78 outside of this state if the entity or its employee or agent is not liable for such injuries or  
79 related damages under the laws of the state in which such provision or administration  
80 occurred. No trained person who is in compliance with this section and who in good faith and  
81 exercising reasonable care fails to administer an epinephrine ~~[auto-injector]~~ **delivery system**  
82 shall be liable for such failure.

83 8. All basic life support ambulances and stretcher vans operated in the state shall be  
84 equipped with epinephrine ~~[auto-injectors]~~ **delivery systems** and be staffed by at least one  
85 individual trained in the use of epinephrine ~~[auto-injectors]~~ **delivery systems**.

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

88 10. Nothing in this section shall be construed as superseding the provisions of section  
89 167.630.

321.621. 1. For the purposes of this section, **the following terms mean:**

2       **(1) "Epinephrine delivery system", a single-use device or system used for the**  
3 **delivery of a premeasured dose of epinephrine into the human body;**

4       **(2) "Qualified first responder" ~~[shall mean]~~, any state and local law enforcement**  
5 **agency staff, fire department personnel, fire district personnel, or licensed emergency medical**  
6 **technician who is acting under the directives and established protocols of a medical director**  
7 **who comes in contact with a person suffering from an anaphylactic reaction and who has**  
8 **received training in recognizing and responding to anaphylactic reactions and the**  
9 **administration of epinephrine ~~[auto-injector devices]~~ delivery systems to a person**  
10 **suffering from an apparent anaphylactic reaction[-];**

11       **(3) "Qualified first responder agencies" ~~[shall mean]~~, any state or local law**  
12 **enforcement agency, fire department, or ambulance service that provides documented training**  
13 **to its staff related to the administration of epinephrine ~~[auto-injector devices]~~ delivery**  
14 **systems in an apparent anaphylactic reaction.**

15       2. The director of the department of health and senior services, if a licensed  
16 physician, may issue a statewide standing order for epinephrine ~~[auto-injector devices]~~  
17 **delivery systems** for adult patients to fire protection districts in nonmetropolitan areas in  
18 Missouri as such areas are determined according to the United States Census Bureau's  
19 American Community Survey, based on the most recent of five-year period estimate data in  
20 which the final year of the estimate ends in either zero or five. If the director of the  
21 department of health and senior services is not a licensed physician, the department of health  
22 and senior services may employ or contract with a licensed physician who may issue such a  
23 statewide order with the express consent of the director.

24       3. Possession and use of epinephrine ~~[auto-injector devices]~~ **delivery systems** for  
25 adult patients shall be limited as follows:

26       (1) No person shall use an epinephrine ~~[auto-injector device]~~ **delivery system**  
27 pursuant to this section unless such person has successfully completed a training course in the  
28 use of epinephrine ~~[auto-injector devices]~~ **delivery systems** for adult patients approved by the  
29 director of the department of health and senior services. Nothing in this section shall prohibit  
30 the use of an epinephrine ~~[auto-injector device]~~ **delivery system:**

31       (a) By a health care professional licensed or certified by this state who is acting  
32 within the scope of his or her practice; or

33       (b) By a person acting pursuant to a lawful prescription;

34       (2) Every person, firm, organization and entity authorized to possess and use  
35 epinephrine ~~[auto-injector devices]~~ **delivery systems** for adult patients pursuant to this  
36 section shall use, maintain and dispose of such ~~[devices]~~ **systems** for adult patients in  
37 accordance with the rules of the department; **and**

38 (3) Every use of an epinephrine [~~auto-injector device~~] **delivery system** pursuant to  
39 this section shall immediately be reported to the emergency health care provider as defined in  
40 section 190.246.

41 4. (1) Use of an epinephrine [~~auto-injector device~~] **delivery system** pursuant to this  
42 section shall be considered first aid or emergency treatment for the purpose of any law  
43 relating to liability.

44 (2) Purchase, acquisition, possession or use of an epinephrine [~~auto-injector device~~]  
45 **delivery system** pursuant to this section shall not constitute the unlawful practice of medicine  
46 or the unlawful practice of a profession.

47 (3) Any person otherwise authorized to sell or provide an epinephrine [~~auto-injector~~  
48 ~~device~~] **delivery system** may sell or provide it to a person authorized to possess it pursuant to  
49 this section.

50 5. (1) There is hereby created in the state treasury the "Epinephrine [~~Auto-injector~~  
51 ~~Devices~~] **Delivery Systems** for Fire Personnel Fund", which shall consist of [~~money collected~~  
52 ~~under this section~~] **moneys appropriated to the fund**. The state treasurer shall be custodian  
53 of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve  
54 disbursements. The moneys in the fund as set forth in this section shall be subject to  
55 appropriation by the general assembly for the particular purpose for which collected. The  
56 fund shall be a dedicated fund and money in the fund shall be used solely by the department  
57 of health and senior services for the purposes of providing epinephrine [~~auto-injector devices~~]  
58 **delivery systems** for adult patients to qualified first responder agencies as used in this  
59 section.

60 (2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys  
61 remaining in the fund at the end of the biennium shall not revert to the credit of the general  
62 revenue fund.

63 (3) The state treasurer shall invest moneys in the fund in the same manner as other  
64 funds are invested. Any interest and moneys earned on such investments shall be credited to  
65 the fund.

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