

SECOND REGULAR SESSION

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 2365, 2490 & 2249

103RD GENERAL ASSEMBLY

5652H.03C

JOSEPH ENGLER, 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Section A. Section 196.990, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 196.990 and 210.225, to read as follows: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]~~ **delivery system** 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]~~ **delivery system**", a single-use ~~[device]~~ **system** used for the ~~[automatic-injection]~~ **delivery** 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]~~ **delivery systems** to an individual;

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

2. A physician may prescribe epinephrine ~~[auto-injectors]~~ **delivery systems** in the name of an authorized entity for use in accordance with this section, and pharmacists,

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.

19 physicians, and other persons authorized to dispense prescription medications may dispense
20 epinephrine ~~[auto-injectors]~~ **delivery systems** under a prescription issued in the name of an
21 authorized entity.

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

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

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

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

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

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

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

50 6. No person shall provide or administer an epinephrine ~~[auto-injector]~~ **delivery**
51 **system** to any individual who is under eighteen years of age without the verbal consent of a
52 parent or guardian who is present at the time when provision or administration of the
53 epinephrine ~~[auto-injector]~~ **delivery system** is needed. Provided, however, that a person may
54 provide or administer an epinephrine ~~[auto-injector]~~ **delivery system** to such an individual
55 without the consent of a parent or guardian if the parent or guardian is not physically present

56 and the person reasonably believes the individual shall be in imminent danger without the
57 provision or administration of the epinephrine ~~[auto-injector]~~ **delivery system**.

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

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

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

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

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

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

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

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

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

210.225. 1. This section shall be known and may be cited as "Elijah's Law".

2 **2. (1) Before July 1, 2028, each licensed child care provider shall adopt a policy**
3 **on allergy prevention and response with priority given to addressing potentially deadly**

4 **food-borne allergies. Such policy shall contain, but shall not be limited to, the following**
5 **elements:**

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

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

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

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

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

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

24 **(2) Such policies may contain information from or links to child care facility**
25 **allergy prevention information furnished by the Food Allergy & Anaphylaxis Network**
26 **or equivalent organization with a medical advisory board that has allergy specialists.**

27 **3. The department of elementary and secondary education shall, in cooperation**
28 **with any appropriate professional association, develop a model policy or policies before**
29 **July 1, 2027.**

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