

SECOND REGULAR SESSION

# HOUSE BILL NO. 2560

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HRUZA.

6116H.01I

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 devices, 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Section A. Sections 167.627, 167.630, 190.246, 196.990, and 321.621, RSMo, are 2 repealed and five new sections enacted in lieu thereof, to be known as sections 167.627, 3 167.630, 190.246, 196.990, and 321.621, to read as follows: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 device", a single-use device used for the delivery of a 3 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 devices**;

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:

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;

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.

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 necessary to administer such medication prescribed or ordered;

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

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

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

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

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

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

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

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

167.630. 1. **As used in this section, the term "epinephrine delivery device" 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 devices at the school. The nurse shall recommend to the  
7 school board the number of ~~prefilled~~ epinephrine ~~auto-syringes~~ delivery devices that the  
8 school should maintain.

9       **[2.] 3.** To obtain **[prefilled]** epinephrine **[auto-syringes]** **delivery devices** 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 device** 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 device** under this section. Trained contracted agents shall have  
22 immunity from civil liability for administering **[a prefilled auto-syringe]** **an epinephrine**  
23 **delivery device** 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 device", a single-use device used for the delivery of a**  
14 **premeasured dose of epinephrine into the human body.**

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

17       (1) No person shall use an epinephrine **[auto-injector]** **delivery** device unless such  
18 person has successfully completed a training course in the use of epinephrine **[auto-injector]**  
19 **delivery** devices approved by the director of the department of health and senior services.  
20 Nothing in this section shall prohibit the use of an epinephrine **[auto-injector]** **delivery**  
21 device:

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~~ **delivery** devices pursuant to this section shall use, maintain and  
27 dispose of such devices in accordance with the rules of the department; **and**

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

30                   3. (1) Use of an epinephrine ~~auto-injector~~ **delivery** device pursuant to this section  
31 shall be considered first aid or emergency treatment for the purpose of any law relating to  
32 liability.

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

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

39                   4. Any person, firm, organization or entity that violates the provisions of this section  
40 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 **device** 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 device**", a single-use device used for the  
11 ~~automatic injection~~ **delivery** of a premeasured dose of epinephrine into the human body;

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

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

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

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

19 physicians, and other persons authorized to dispense prescription medications may dispense  
20 epinephrine ~~auto-injectors~~ **delivery devices** 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 devices** under a prescription issued in accordance with this section. Such  
24 epinephrine ~~auto-injectors~~ **delivery devices** shall be stored in a location readily accessible  
25 in an emergency and in accordance with the epinephrine ~~auto-injector's~~ **delivery device'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 devices** acquired  
30 by the authorized entity.

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

33 (1) Expected epinephrine ~~auto-injector~~ **delivery device** users receive training in  
34 recognizing symptoms of severe allergic reactions including anaphylaxis and the use of  
35 epinephrine ~~auto-injectors~~ **delivery devices** 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 devices** are maintained and stored  
39 according to the epinephrine ~~auto-injector's~~ **delivery device's** instructions for use;

40 (3) Any person who provides or administers an epinephrine ~~auto-injector~~ **delivery  
41 device** 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 device** is used to render emergency care is conducted.

45 5. Any authorized entity that acquires a supply of epinephrine ~~auto-injectors~~  
46 **delivery devices** 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 devices** are to  
49 be located within the entity's facility.

50 6. No person shall provide or administer an epinephrine ~~auto-injector~~ **delivery  
51 device** 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 device** is needed. Provided, however, that a person may  
54 provide or administer an epinephrine ~~auto-injector~~ **delivery device** 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 device**.

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 device** 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 devices** and its employees, agents, and other trained persons;

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

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

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

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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 device** 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 device** 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 device**  
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 devices** and be staffed by at least one  
84 individual trained in the use of epinephrine ~~auto-injectors~~ **delivery devices**.

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.

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

2 (1) "Epinephrine delivery device", a single-use device used for the delivery of a  
3 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]~~ **delivery** devices to a person suffering from  
10 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]~~ **delivery** devices in an  
14 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]~~ **delivery**  
17 devices for adult patients to fire protection districts in nonmetropolitan areas in Missouri as  
18 such areas are determined according to the United States Census Bureau's American  
19 Community Survey, based on the most recent of five-year period estimate data in which the  
20 final year of the estimate ends in either zero or five. If the director of the department of health  
21 and senior services is not a licensed physician, the department of health and senior services  
22 may employ or contract with a licensed physician who may issue such a statewide order with  
23 the express consent of the director.

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

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

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]~~ **delivery** devices for adult patients pursuant to this section shall  
36 use, maintain and dispose of such devices for adult patients in accordance with the rules of the  
37 department; **and**

38       (3) Every use of an epinephrine ~~[auto-injector]~~ **delivery** device pursuant to this  
39 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~~ **delivery** device pursuant to this section  
42 shall be considered first aid or emergency treatment for the purpose of any law relating to  
43 liability.

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

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

50       5. (1) There is hereby created in the state treasury the "Epinephrine ~~Auto-injector~~  
51 **Delivery Devices for Fire Personnel Fund**", which shall consist of ~~money collected under~~  
52 ~~this section~~ **moneys appropriated to the fund**. The state treasurer shall be custodian of the  
53 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~~  
58 **delivery** devices for adult patients to qualified first responder agencies as used in this section.

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

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

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