

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1351 Session of 2015

INTRODUCED BY BAKER, MURT, SCHWEYER, THOMAS, MASSER, MILLARD, V. BROWN, KINSEY, WARD, McNEILL, BOBACK, MILNE, O'BRIEN, R. BROWN, KOTIK, READSHAW, DRISCOLL, MARSICO, GROVE, LAWRENCE, SCHLOSSBERG, A. HARRIS, COHEN, GIBBONS, FEE, DeLUCA, WATSON, DONATUCCI AND HARHAI, JUNE 18, 2015

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, OCTOBER 25, 2016

AN ACT

1 Providing for the use of epinephrine auto-injectors by certain  
2 entities and organizations; and conferring powers and  
3 imposing duties on the Department of Health.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as Epinephrine Auto-  
8 Injector Entity Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Administer." The direct application of an epinephrine auto-  
14 injector to the body of an individual.

15 "Authorized entity." Any entity or organization, other than  
16 a school entity ~~described~~ OR A NONPUBLIC SCHOOL under section <--

1 1414.2 of the act of March 10, 1949 (P.L.30, No.14), known as  
2 the Public School Code of 1949, WHICH HAS AN EMPLOYEE OR AGENT <--  
3 WHO HAS COMPLETED THE REQUIRED TRAINING AND at which allergens  
4 capable of causing anaphylaxis may be present, including, but  
5 not limited to:

- 6 (1) recreation camps;
- 7 (2) colleges and universities;
- 8 (3) day-care facilities;
- 9 (4) youth sports leagues;
- 10 (5) amusement parks;
- 11 (6) restaurants;
- 12 (7) places of employment; and
- 13 (8) sports arenas.

14 "Department." The Department of Health of the Commonwealth.

15 "Epinephrine auto-injector." A single-use device used for  
16 the automatic injection of a premeasured dose of epinephrine  
17 into the human body.

18 "Health care practitioner." An individual who is authorized  
19 to practice some component of the healing arts by a license,  
20 permit, certificate or registration issued by a Commonwealth  
21 licensing agency or board.

22 Section 3. Epinephrine auto-injectors for authorized entities.

23 (a) Prescribing and dispensing.--Notwithstanding any  
24 provision of law to the contrary, a health care practitioner  
25 WITH PRESCRIPTIVE AUTHORITY may prescribe epinephrine auto- <--  
26 injectors in the name of an authorized entity for use in  
27 accordance with this section. Pharmacists and health care  
28 practitioners may dispense epinephrine auto-injectors pursuant  
29 to a prescription issued in the name of an authorized entity.

30 (b) Supply.--

1           (1) An authorized entity may acquire and stock a supply  
2 of epinephrine auto-injectors pursuant to a prescription  
3 issued in accordance with this section. The epinephrine auto-  
4 injectors shall be stored:

5           (i) in a location readily accessible in an  
6 emergency; and

7           (ii) in accordance with:

8           (A) the epinephrine auto-injector's instructions  
9 for use; and

10           (B) any additional requirements that may be  
11 established by the department.

12           (2) An authorized entity shall designate employees or  
13 agents who have completed the training required under  
14 subsection (d) to be responsible for the storage,  
15 maintenance, control and general oversight of epinephrine  
16 auto-injectors acquired by the authorized entity.

17           (c) Use.--An employee or agent of an authorized entity or  
18 other individual associated with the entity who has completed  
19 the training required under subsection (d) may use epinephrine  
20 auto-injectors prescribed under subsection (a) to do any of the  
21 following:

22           (1) Provide an epinephrine auto-injector to any  
23 individual, or the parent, guardian or caregiver of the  
24 individual, who the employee, agent or other individual  
25 associated with the entity believes, in good faith, is  
26 experiencing anaphylaxis for immediate administration,  
27 regardless of whether the individual has a prescription for  
28 an epinephrine auto-injector or has previously been diagnosed  
29 with an allergy.

30           (2) Administer an epinephrine auto-injector to any

1 individual who the employee, agent or other individual  
2 believes, in good faith, is experiencing anaphylaxis,  
3 regardless of whether the individual has a prescription for  
4 an epinephrine auto-injector or has previously been diagnosed  
5 with an allergy.

6 (d) Training.--

7 (1) An employee or agent of the authorized entity or  
8 other individual associated with the entity shall complete an  
9 anaphylaxis training program as required by the department.  
10 Such training shall be conducted by a nationally recognized  
11 organization experienced in training laypersons in emergency  
12 health treatment or an entity or individual approved by the  
13 department. The department may approve specific entities or  
14 individuals or may approve classes of entities or individuals  
15 to conduct the training. Training may be conducted online or  
16 in person and, at a minimum, shall cover:

17 (i) how to recognize signs and symptoms of severe  
18 allergic reactions, including anaphylaxis;

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

21 (iii) emergency follow-up procedures.

22 (2) The entity that conducts the training shall issue a  
23 certificate, on a form developed or approved by the  
24 department, to each individual who successfully completes the  
25 anaphylaxis training program.

26 (e) Good Samaritan protections.--

27 (1) The following shall not be liable for any injuries  
28 or related damages that result from any act or omission taken  
29 pursuant to this section:

30 (i) An authorized entity that possesses and makes

1 available epinephrine auto-injectors and its employees,  
2 agents and other individuals associated with the entity;

3 (ii) a health care practitioner that prescribes or  
4 dispenses epinephrine auto-injectors to an authorized  
5 entity;

6 (iii) a pharmacist or health care practitioner that  
7 dispenses epinephrine auto-injectors to an authorized  
8 entity; and

9 (iv) an individual or entity that conducts the  
10 training described under subsection (d).

11 (2) The immunity provided under paragraph (1) shall not  
12 apply to acts or omissions constituting intentional  
13 misconduct or gross negligence.

14 (3) The administration of an epinephrine auto-injector  
15 in accordance with this section shall not be considered the  
16 practice of medicine or any other profession that otherwise  
17 requires licensure.

18 (4) This subsection shall not eliminate, limit or reduce  
19 any other immunity or defense that may be available under  
20 law, including that provided under 42 Pa.C.S. § 8332  
21 (relating to emergency response provider and bystander good  
22 Samaritan civil immunity).

23 (5) An entity located in this Commonwealth shall not be  
24 liable for any injuries or related damages that result from  
25 the provision or administration of an epinephrine auto-  
26 injector outside of this Commonwealth if the entity:

27 (i) would not have been liable for such injuries or  
28 related damages had the provision or administration  
29 occurred within this Commonwealth; or

30 (ii) is not liable for such injuries or related

1 damages under the law of the state in which such  
2 provision or administration occurred.

3 Section 4. Effective date.

4 This act shall take effect in 60 days.