



# *State of Tennessee*

## **PUBLIC CHAPTER NO. 805**

### **SENATE BILL NO. 1989**

**By Green, Tracy, Crowe, Hensley, Dickerson, Briggs, Massey, Watson, Bailey, McNally, Overbey, Jackson, Haile, Roberts, Ketron**

Substituted for: House Bill No. 2054

By Kumar, Cameron Sexton, Williams, Littleton, Matthew Hill, Favors, Terry, Hardaway, Byrd, Windle, Daniel, Armstrong, Powell, Smith, Hazlewood, Sparks, Kevin Brooks, Dunlap

AN ACT to amend Tennessee Code Annotated, Title 38 and Title 68, Chapter 140, relative to epinephrine auto-injectors.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 140, is amended by adding a new part thereto as follows:

#### **68-140-501.**

As used in this part, unless the context otherwise requires:

(1) "Authorized entity" means an entity or organization at which allergens capable of causing anaphylaxis may be present, including, but not limited to, a recreation camp, college, university, place of worship, youth sports league, amusement park, restaurant, place of employment, and sports arena. The term does not include a public or nonpublic school that is authorized to maintain and administer an epinephrine auto-injector on the premises of the school pursuant to § 49-50-1602;

(2) "Department" means the department of health;

(3) "Emergency public access station (EPAS)" means a locked, secure container for the storage of epinephrine auto-injectors that:

(A) Is maintained by and under the general supervision of a medical professional and that allows a layperson, after consulting with the medical professional in real time by audio, televideo, or other similar means of electronic communication, to unlock the container and access the epinephrine auto-injectors; and

(B) Is approved for use under any applicable provisions of title 21 of the United States Code;

(4) "Epinephrine auto-injector" means a single-use device used to administer by automatic injection a premeasured dose of epinephrine into the body of a person;

(5) "Health care prescriber" means a medical doctor or doctor of osteopathic medicine who is licensed pursuant to chapter 6 or 9 of title 63; a nurse practitioner licensed pursuant to chapter 7 of title 63; and a physician assistant licensed pursuant to chapter 19 of title 63; and

(6) "Medical professional" means a medical doctor or doctor of osteopathic medicine who is licensed to practice medicine or osteopathic medicine in this state or in any other state or territory of the United States.

#### **68-140-502.**

(a) A health care prescriber may prescribe epinephrine auto-injectors in the name of an authorized entity for use in accordance with this section, and pharmacists and health care prescribers may dispense epinephrine auto-injectors pursuant to a prescription issued in the name of an authorized entity.

(b) An authorized entity may acquire and stock a supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with subsection (a). Except as otherwise provided in subsection (g), if an authorized entity acquires and stocks a supply of epinephrine auto-injectors pursuant to this subsection, the authorized entity shall:

(1) Store epinephrine auto-injectors in a location readily accessible in an emergency, and in accordance with the epinephrine auto-injector's instructions for use and any rules promulgated by the department for the maintenance of epinephrine auto-injectors by an authorized entity; and

(2) Designate one or more employees or agents who have completed the training required by subsection (d) to be responsible for the storage, maintenance, control, and general supervision of the epinephrine auto-injectors.

(c) An employee or agent of an authorized entity who has completed the training required by subsection (d), or a layperson who is provided access to an EPAS in accordance with subsection (g), may:

(1) Provide an epinephrine auto-injector to a person who the employee, agent, or person believes in good faith is experiencing anaphylaxis, or to the parent, guardian, or caregiver of the person, for immediate administration to the person, regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy; and

(2) Administer an epinephrine auto-injector to a person who the employee, agent, or person believes in good faith is experiencing anaphylaxis, regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

(d) Before an employee or agent of an authorized agency is designated pursuant to subdivision (b)(2) or authorized to provide or administer an epinephrine auto-injector pursuant to subsection (c), the employee or agent shall complete an initial anaphylaxis training program and shall complete the training program at least every two (2) years thereafter. The training program shall be conducted by a nationally recognized organization experienced in training laypersons in emergency health treatment, by an entity or person approved by the department, or as part of a class approved by the department. An employee or agent may complete the training required pursuant to this subsection in a live setting or on the Internet.

(e) A training program conducted pursuant to subsection (d) shall include training on:

(1) Methods for recognizing signs and symptoms of severe allergic reactions, including anaphylaxis;

(2) Standards and procedures for the storage and administration of an epinephrine auto-injector; and

(3) Emergency follow-up procedures.

(f) An entity or person that conducts an anaphylaxis training program shall issue a certificate of completion to each person who successfully completes the training program. The department may create or approve a form for use in accordance with this subsection (f).

(g) An authorized entity that acquires a stock supply of epinephrine auto-injectors pursuant to subsection (b) may store a supply of epinephrine auto-injectors in an EPAS for the purpose of making the epinephrine auto-injectors available to a layperson under the remote supervision of a medical professional. A layperson may access an epinephrine auto-injector from an EPAS only upon remote authorization by a medical professional and after consultation with the medical professional by audio, televideo, or other similar means of electronic communication. A layperson who is

provided access to an epinephrine auto-injector in accordance with this subsection may administer or provide the epinephrine auto-injector to a person in accordance with subsection (c) regardless of whether the layperson has completed an anaphylaxis training program conducted pursuant to subsection (d).

(h) The following entities and persons are immune from civil liability in the absence of gross negligence for any action authorized by this section or the failure to take any action authorized by this section:

(1) An authorized entity that acquires, stocks, and makes available epinephrine auto-injectors;

(2) An employee or agent of an authorized entity, or a layperson, who administers or provides an epinephrine auto-injector;

(3) A health care prescriber who prescribes epinephrine auto-injectors to an authorized entity;

(4) A pharmacist or health care prescriber who dispenses epinephrine auto-injectors to an authorized entity;

(5) A third party that facilitates the availability of epinephrine auto-injectors to an authorized entity;

(6) A medical professional who maintains and supervises, and provides remote access to, an EPAS; and

(7) An organization, entity, or person that conducts a training program.

(i) An authorized entity located in this state is immune from civil liability for any injuries or related damages resulting from the provision or administration of an epinephrine auto-injector by an employee or agent of the authorized entity that occurs outside of this state if the authorized entity:

(1) Would not be liable for the injuries or related damages had the provision or administration of the epinephrine auto-injector occurred within this state; or

(2) Is not liable for the injuries or related damages under any applicable law of the state in which the provision or administration of the epinephrine auto-injector occurred.

(j) This section shall not be deemed to eliminate, limit, or reduce any other immunity or defense that may be available to an authorized entity or person under any applicable law of this state, including the provisions of § 63-6-218.

(k) An action authorized pursuant to this section shall not be deemed to be the practice of medicine or any other profession that otherwise requires licensure.

(l) An authorized entity that possesses and makes available epinephrine auto-injectors shall submit to the department a report of each incident on the premises of the authorized entity involving the administration or provision of an epinephrine auto-injector pursuant to subsection (c). The department may create or approve a form for use in accordance with this subsection (l).

SECTION 4. Notwithstanding this act or the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5, any rule promulgated to implement the provisions of this act shall be provided to the chairs of the health committee of the house of representatives and the health and welfare committee of the senate by the secretary of state, after approval by the attorney general and reporter, at the same time the text of the rule is made available to the government operations committees of the senate and the house of representatives for purposes of conducting the review required by § 4-5-226 in order for the health committee of the house of representatives and the health and welfare committee of the senate to be afforded the opportunity to comment on the rule.

SECTION 5. For the purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2016, the public welfare requiring it.

SENATE BILL NO. 1989

PASSED: March 23, 2016

  
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RON RAMSEY  
SPEAKER OF THE SENATE

  
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BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 14<sup>th</sup> day of April 2016

  
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BILL HASLAM, GOVERNOR