

BILL ANALYSIS

C.S.H.B. 4260
By: Cortez
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Food allergies have been reported to represent the most common cause of the severe, potentially life-threatening allergic reaction known as anaphylaxis among children and adolescents. Over the last decade the prevalence of food allergies has reportedly increased, with some estimates indicating that 1 in every 13 kids is affected by a food allergy. It has been suggested that, in light of this increased prevalence and the health risks associated with food allergies, certain entities should have better access to epinephrine auto-injectors to prevent hospitalization or death. C.S.H.B. 4260 seeks to address this issue by authorizing certain entities to have access to and administrate epinephrine auto-injectors.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 4260 amends the Health and Safety Code to authorize an applicable entity to adopt a policy regarding the maintenance, administration, and disposal of epinephrine auto-injectors. The bill requires such a policy to provide that only an entity employee or volunteer who is authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis on the premises of the entity. The bill requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules regarding the maintenance, administration, and disposal of an epinephrine auto-injector by an entity subject to the policy. The bill requires the rules to establish the number and dosage of auto-injectors available at each entity, the process for each entity to verify the inventory of auto-injectors at regular intervals for expiration and replacement, and the amount of training required to administer an auto-injector.

C.S.H.B. 4260 requires each entity that adopts the policy to have at least one employee or volunteer authorized and trained to administer the auto-injector present during all hours the entity is open to the public or to the population that the entity serves, as applicable. The bill requires the supply of auto-injectors at each entity to be stored in accordance with the manufacturer's instructions in a secure location and be easily accessible to the employee or volunteer authorized and trained to administer the auto-injector. The bill establishes that each entity is responsible for training its employees and volunteers. The bill sets out the information required to be included in the training and requires the training to be completed annually in a formal training session or through online education. The bill requires each entity to maintain records on the training completed by each employee and volunteer.

C.S.H.B. 4260 authorizes a physician or person delegated prescriptive authority under applicable law to prescribe auto-injectors in the name of an entity. The bill requires the physician or other person to provide the entity with a standing order for the administration of an auto-injector and establishes that the order is not required to be patient-specific and the auto-injector may be administered without a previously established physician-patient relationship. The bill establishes that supervision or delegation by a physician is adequate if the physician periodically reviews the order and is available through direct telecommunication as needed for consultation, assistance, and direction. The bill establishes that a person delegated prescriptive authority under applicable law is not engaged in the unauthorized practice of telemedicine or acting outside the person's scope of practice by consulting a physician when prescribing an auto-injector. The bill sets out the content of the order and authorizes a pharmacist to dispense an auto-injector to an entity without requiring the name or any other identifying information relating to the user. The bill grants immunity from civil or criminal liability or disciplinary action to a person who in good faith takes, or fails to take, any action under the bill's provisions. The bill sets out provisions relating to the immunities and protections granted to an entity or entity employees or volunteers.

C.S.H.B. 4260 applies to an amusement park, a child-care facility, a day camp or youth camp, a public, private, or independent institution of higher education, a restaurant, a sports venue, a youth center, and any other entity that the HHSC executive commissioner by rule designates as an entity that would benefit from the possession and administration of epinephrine auto-injectors. The bill expressly does not apply to a governmental entity.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4260 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute exempts a governmental entity from application of the bill's provisions.