

1-1 By: Cortez (Senate Sponsor - Lucio) H.B. No. 4260
 1-2 (In the Senate - Received from the House May 6, 2019;
 1-3 May 6, 2019, read first time and referred to Committee on Health &
 1-4 Human Services; May 19, 2019, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
 1-6 May 19, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 4260 By: Perry

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the possession and administration of an epinephrine
 1-22 auto-injector by certain entities.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. The heading to Section 773.014, Health and
 1-25 Safety Code, is amended to read as follows:

1-26 Sec. 773.014. ADMINISTRATION OF EPINEPHRINE BY EMERGENCY
 1-27 MEDICAL SERVICES PERSONNEL.

1-28 SECTION 2. Subchapter A, Chapter 773, Health and Safety
 1-29 Code, is amended by adding Section 773.0145 to read as follows:

1-30 Sec. 773.0145. POSSESSION AND ADMINISTRATION OF
 1-31 EPINEPHRINE BY CERTAIN ENTITIES. (a) This section applies to:

1-32 (1) an amusement park, as defined by Section 46.035,
 1-33 Penal Code;

1-34 (2) a child-care facility, as defined by Section
 1-35 42.002, Human Resources Code;

1-36 (3) a day camp or youth camp, as defined by Section
 1-37 141.002;

1-38 (4) a private or independent institution of higher
 1-39 education, as defined by Section 61.003, Education Code;

1-40 (5) a restaurant, as defined by Section 17.821,
 1-41 Business & Commerce Code;

1-42 (6) a sports venue, as defined by Section 504.151,
 1-43 Local Government Code;

1-44 (7) a youth center, as defined by Section 481.134; or
 1-45 (8) subject to Subsection (b), any other entity that

1-46 the executive commissioner by rule designates as an entity that
 1-47 would benefit from the possession and administration of epinephrine
 1-48 auto-injectors.

1-49 (b) This section does not apply to a governmental entity.

1-50 (c) An entity described by Subsection (a) may adopt a policy
 1-51 regarding the maintenance, administration, and disposal of
 1-52 epinephrine auto-injectors.

1-53 (d) A policy adopted under Subsection (c) must provide that
 1-54 only an entity employee or volunteer who is authorized and trained
 1-55 may administer an epinephrine auto-injector to a person who is
 1-56 reasonably believed to be experiencing anaphylaxis on the premises
 1-57 of the entity.

1-58 (e) The executive commissioner shall adopt rules regarding
 1-59 the maintenance, administration, and disposal of an epinephrine
 1-60 auto-injector by an entity subject to a policy adopted under

2-1 Subsection (c). The rules must establish:
2-2 (1) the number of epinephrine auto-injectors and the
2-3 dosages of the auto-injectors available at each entity;
2-4 (2) the process for each entity to verify the
2-5 inventory of epinephrine auto-injectors at regular intervals for
2-6 expiration and replacement; and
2-7 (3) the amount of training required for an entity
2-8 employee or volunteer to administer an epinephrine auto-injector.
2-9 (f) Each entity that adopts a policy under Subsection (c)
2-10 must have at least one entity employee or volunteer authorized and
2-11 trained to administer an epinephrine auto-injector present during
2-12 all hours the entity is open to the public or to the population that
2-13 the entity serves, as applicable.
2-14 (g) The supply of epinephrine auto-injectors at each entity
2-15 must:
2-16 (1) be stored in accordance with the manufacturer's
2-17 instructions in a secure location; and
2-18 (2) be easily accessible to an entity employee or
2-19 volunteer authorized and trained to administer an epinephrine
2-20 auto-injector.
2-21 (h) Each entity that adopts a policy under Subsection (c) is
2-22 responsible for training the entity's employees and volunteers in
2-23 the administration of an epinephrine auto-injector.
2-24 (i) Employee and volunteer training under this section
2-25 must:
2-26 (1) include information on:
2-27 (A) the signs and symptoms of anaphylaxis;
2-28 (B) the recommended dosages for an adult and a
2-29 child;
2-30 (C) the administration of an epinephrine
2-31 auto-injector;
2-32 (D) the implementation of emergency procedures,
2-33 if necessary, after administering an epinephrine auto-injector;
2-34 and
2-35 (E) the proper disposal of used or expired
2-36 epinephrine auto-injectors; and
2-37 (2) be completed annually in a formal training session
2-38 or through online education.
2-39 (j) Each entity shall maintain records on the training
2-40 completed by each employee and volunteer under this section.
2-41 (k) A physician or person who has been delegated
2-42 prescriptive authority under Chapter 157, Occupations Code, may
2-43 prescribe epinephrine auto-injectors in the name of an entity.
2-44 (l) A physician or other person who prescribes epinephrine
2-45 auto-injectors under Subsection (k) shall provide the entity with a
2-46 standing order for the administration of an epinephrine
2-47 auto-injector to a person reasonably believed to be experiencing
2-48 anaphylaxis.
2-49 (m) The standing order under Subsection (l) is not required
2-50 to be patient-specific, and the epinephrine auto-injector may be
2-51 administered to a person without a previously established
2-52 physician-patient relationship.
2-53 (n) Notwithstanding any other law, supervision or
2-54 delegation by a physician is considered adequate if the physician:
2-55 (1) periodically reviews the order; and
2-56 (2) is available through direct telecommunication as
2-57 needed for consultation, assistance, and direction.
2-58 (o) For purposes of Subsection (n)(2), a person who has been
2-59 delegated prescriptive authority under Chapter 157, Occupations
2-60 Code, is not engaged in the unauthorized practice of telemedicine
2-61 or acting outside the person's scope of practice by consulting a
2-62 physician as provided by that subdivision when prescribing an
2-63 epinephrine auto-injector in accordance with this section.
2-64 (p) An order issued under this section must contain:
2-65 (1) the name and signature of the prescriber;
2-66 (2) the name of the entity to which the order is
2-67 issued;
2-68 (3) the quantity of epinephrine auto-injectors to be
2-69 obtained and maintained under the order; and

3-1 (4) the date of issue.

3-2 (q) A pharmacist may dispense an epinephrine auto-injector
3-3 to an entity without requiring the name or any other identifying
3-4 information relating to the user.

3-5 (r) A person who in good faith takes, or fails to take, any
3-6 action under this section is immune from civil or criminal
3-7 liability or disciplinary action resulting from that action or
3-8 failure to act, including:

3-9 (1) issuing an order for epinephrine auto-injectors;

3-10 (2) supervising or delegating the administration of an
3-11 epinephrine auto-injector;

3-12 (3) possessing, maintaining, storing, or disposing of
3-13 an epinephrine auto-injector;

3-14 (4) prescribing an epinephrine auto-injector;

3-15 (5) dispensing an epinephrine auto-injector;

3-16 (6) administering, or assisting in administering, an
3-17 epinephrine auto-injector;

3-18 (7) providing, or assisting in providing, training,
3-19 consultation, or advice in the development, adoption, or
3-20 implementation of policies, guidelines, rules, or plans; or

3-21 (8) undertaking any other act permitted or required
3-22 under this section.

3-23 (s) The immunities and protections provided by this section
3-24 are in addition to other immunities or limitations of liability
3-25 provided by law.

3-26 (t) Notwithstanding any other law, this section does not
3-27 create a civil, criminal, or administrative cause of action or
3-28 liability or create a standard of care, obligation, or duty that
3-29 provides a basis for a cause of action for an act or omission under
3-30 this section.

3-31 (u) A cause of action does not arise from an act or omission
3-32 described by this section.

3-33 (v) An entity and entity employees or volunteers are immune
3-34 from suit resulting from an act, or failure to act, under this
3-35 section, including an act or failure to act under related policies
3-36 and procedures.

3-37 (w) An act or failure to act by entity employees or
3-38 volunteers under this section, including an act or failure to act
3-39 under related policies and procedures, is the exercise of judgment
3-40 or discretion on the part of the entity employee or volunteer and is
3-41 not considered to be a ministerial act for purposes of liability of
3-42 the entity.

3-43 SECTION 3. This Act takes effect September 1, 2019.

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