

SENATE AMENDMENTS

2nd Printing

By: Cortez

H.B. No. 4260

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the possession and administration of an epinephrine
3 auto-injector by certain entities.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The heading to Section 773.014, Health and
6 Safety Code, is amended to read as follows:

7 Sec. 773.014. ADMINISTRATION OF EPINEPHRINE BY EMERGENCY
8 MEDICAL SERVICES PERSONNEL.

9 SECTION 2. Subchapter A, Chapter 773, Health and Safety
10 Code, is amended by adding Section 773.0145 to read as follows:

11 Sec. 773.0145. POSSESSION AND ADMINISTRATION OF
12 EPINEPHRINE BY CERTAIN ENTITIES. (a) This section applies to:

13 (1) an amusement park, as defined by Section 46.035,
14 Penal Code;

15 (2) a child-care facility, as defined by Section
16 42.002, Human Resources Code;

17 (3) a day camp or youth camp, as defined by Section
18 141.002;

19 (4) an institution of higher education or private or
20 independent institution of higher education, as defined by Section
21 61.003, Education Code;

22 (5) a restaurant, as defined by Section 17.821,
23 Business & Commerce Code;

24 (6) a sports venue, as defined by Section 504.151,

1 Local Government Code;

2 (7) a youth center, as defined by Section 481.134; or

3 (8) subject to Subsection (b), any other entity that
4 the executive commissioner by rule designates as an entity that
5 would benefit from the possession and administration of epinephrine
6 auto-injectors.

7 (b) This section does not apply to a governmental entity.

8 (c) An entity described by Subsection (a) may adopt a policy
9 regarding the maintenance, administration, and disposal of
10 epinephrine auto-injectors.

11 (d) A policy adopted under Subsection (c) must provide that
12 only an entity employee or volunteer who is authorized and trained
13 may administer an epinephrine auto-injector to a person who is
14 reasonably believed to be experiencing anaphylaxis on the premises
15 of the entity.

16 (e) The executive commissioner shall adopt rules regarding
17 the maintenance, administration, and disposal of an epinephrine
18 auto-injector by an entity subject to a policy adopted under
19 Subsection (c). The rules must establish:

20 (1) the number of epinephrine auto-injectors and the
21 dosages of the auto-injectors available at each entity;

22 (2) the process for each entity to verify the
23 inventory of epinephrine auto-injectors at regular intervals for
24 expiration and replacement; and

25 (3) the amount of training required for an entity
26 employee or volunteer to administer an epinephrine auto-injector.

27 (f) Each entity that adopts a policy under Subsection (c)

1 must have at least one entity employee or volunteer authorized and
2 trained to administer an epinephrine auto-injector present during
3 all hours the entity is open to the public or to the population that
4 the entity serves, as applicable.

5 (g) The supply of epinephrine auto-injectors at each entity
6 must:

7 (1) be stored in accordance with the manufacturer's
8 instructions in a secure location; and

9 (2) be easily accessible to an entity employee or
10 volunteer authorized and trained to administer an epinephrine
11 auto-injector.

12 (h) Each entity that adopts a policy under Subsection (c) is
13 responsible for training the entity's employees and volunteers in
14 the administration of an epinephrine auto-injector.

15 (i) Employee and volunteer training under this section
16 must:

17 (1) include information on:

18 (A) the signs and symptoms of anaphylaxis;

19 (B) the recommended dosages for an adult and a
20 child;

21 (C) the administration of an epinephrine
22 auto-injector;

23 (D) the implementation of emergency procedures,
24 if necessary, after administering an epinephrine auto-injector;
25 and

26 (E) the proper disposal of used or expired
27 epinephrine auto-injectors; and

1 (2) be completed annually in a formal training session
2 or through online education.

3 (j) Each entity shall maintain records on the training
4 completed by each employee and volunteer under this section.

5 (k) A physician or person who has been delegated
6 prescriptive authority under Chapter 157, Occupations Code, may
7 prescribe epinephrine auto-injectors in the name of an entity.

8 (l) A physician or other person who prescribes epinephrine
9 auto-injectors under Subsection (k) shall provide the entity with a
10 standing order for the administration of an epinephrine
11 auto-injector to a person reasonably believed to be experiencing
12 anaphylaxis.

13 (m) The standing order under Subsection (l) is not required
14 to be patient-specific, and the epinephrine auto-injector may be
15 administered to a person without a previously established
16 physician-patient relationship.

17 (n) Notwithstanding any other law, supervision or
18 delegation by a physician is considered adequate if the physician:

19 (1) periodically reviews the order; and

20 (2) is available through direct telecommunication as
21 needed for consultation, assistance, and direction.

22 (o) For purposes of Subsection (n)(2), a person who has been
23 delegated prescriptive authority under Chapter 157, Occupations
24 Code, is not engaged in the unauthorized practice of telemedicine
25 or acting outside the person's scope of practice by consulting a
26 physician as provided by that subsection when prescribing an
27 epinephrine auto-injector in accordance with this section.

1 (p) An order issued under this section must contain:

2 (1) the name and signature of the prescriber;

3 (2) the name of the entity to which the order is
4 issued;

5 (3) the quantity of epinephrine auto-injectors to be
6 obtained and maintained under the order; and

7 (4) the date of issue.

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

11 (r) A person who in good faith takes, or fails to take, any
12 action under this section is immune from civil or criminal
13 liability or disciplinary action resulting from that action or
14 failure to act, including:

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

16 (2) supervising or delegating the administration of an
17 epinephrine auto-injector;

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

20 (4) prescribing an epinephrine auto-injector;

21 (5) dispensing an epinephrine auto-injector;

22 (6) administering, or assisting in administering, an
23 epinephrine auto-injector;

24 (7) providing, or assisting in providing, training,
25 consultation, or advice in the development, adoption, or
26 implementation of policies, guidelines, rules, or plans; or

27 (8) undertaking any other act permitted or required

1 under this section.

2 (s) The immunities and protections provided by this section
3 are in addition to other immunities or limitations of liability
4 provided by law.

5 (t) Notwithstanding any other law, this section does not
6 create a civil, criminal, or administrative cause of action or
7 liability or create a standard of care, obligation, or duty that
8 provides a basis for a cause of action for an act or omission under
9 this section.

10 (u) A cause of action does not arise from an act or omission
11 described by this section.

12 (v) An entity and entity employees or volunteers are immune
13 from suit resulting from an act, or failure to act, under this
14 section, including an act or failure to act under related policies
15 and procedures.

16 (w) An act or failure to act by entity employees or
17 volunteers under this section, including an act or failure to act
18 under related policies and procedures, is the exercise of judgment
19 or discretion on the part of the entity employee or volunteer and is
20 not considered to be a ministerial act for purposes of liability of
21 the entity.

22 SECTION 3. This Act takes effect September 1, 2019.

ADOPTED

MAY 22 2019

Atty Gen
Secretary of the Senate

By: Cortez/Lucio

____.B. No. _____

Substitute the following for ____B. No. _____:

By: Charles Perry

C.S. H.B. No. 4260

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

Sec. 773.014. ADMINISTRATION OF EPINEPHRINE BY EMERGENCY MEDICAL SERVICES PERSONNEL.

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

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

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

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

(3) a day camp or youth camp, as defined by Section 141.002;

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

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

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

1 (7) a youth center, as defined by Section 481.134; or

2 (8) subject to Subsection (b), any other entity that
3 the executive commissioner by rule designates as an entity that
4 would benefit from the possession and administration of epinephrine
5 auto-injectors.

6 (b) This section does not apply to a governmental entity.

7 (c) An entity described by Subsection (a) may adopt a policy
8 regarding the maintenance, administration, and disposal of
9 epinephrine auto-injectors.

10 (d) A policy adopted under Subsection (c) must provide that
11 only an entity employee or volunteer who is authorized and trained
12 may administer an epinephrine auto-injector to a person who is
13 reasonably believed to be experiencing anaphylaxis on the premises
14 of the entity.

15 (e) The executive commissioner shall adopt rules regarding
16 the maintenance, administration, and disposal of an epinephrine
17 auto-injector by an entity subject to a policy adopted under
18 Subsection (c). The rules must establish:

19 (1) the number of epinephrine auto-injectors and the
20 dosages of the auto-injectors available at each entity;

21 (2) the process for each entity to verify the
22 inventory of epinephrine auto-injectors at regular intervals for
23 expiration and replacement; and

24 (3) the amount of training required for an entity
25 employee or volunteer to administer an epinephrine auto-injector.

26 (f) Each entity that adopts a policy under Subsection (c)
27 must have at least one entity employee or volunteer authorized and

1 trained to administer an epinephrine auto-injector present during
2 all hours the entity is open to the public or to the population that
3 the entity serves, as applicable.

4 (g) The supply of epinephrine auto-injectors at each entity
5 must:

6 (1) be stored in accordance with the manufacturer's
7 instructions in a secure location; and

8 (2) be easily accessible to an entity employee or
9 volunteer authorized and trained to administer an epinephrine
10 auto-injector.

11 (h) Each entity that adopts a policy under Subsection (c) is
12 responsible for training the entity's employees and volunteers in
13 the administration of an epinephrine auto-injector.

14 (i) Employee and volunteer training under this section
15 must:

16 (1) include information on:

17 (A) the signs and symptoms of anaphylaxis;

18 (B) the recommended dosages for an adult and a
19 child;

20 (C) the administration of an epinephrine
21 auto-injector;

22 (D) the implementation of emergency procedures,
23 if necessary, after administering an epinephrine auto-injector;
24 and

25 (E) the proper disposal of used or expired
26 epinephrine auto-injectors; and

27 (2) be completed annually in a formal training session

1 or through online education.

2 (j) Each entity shall maintain records on the training
3 completed by each employee and volunteer under this section.

4 (k) A physician or person who has been delegated
5 prescriptive authority under Chapter 157, Occupations Code, may
6 prescribe epinephrine auto-injectors in the name of an entity.

7 (l) A physician or other person who prescribes epinephrine
8 auto-injectors under Subsection (k) shall provide the entity with a
9 standing order for the administration of an epinephrine
10 auto-injector to a person reasonably believed to be experiencing
11 anaphylaxis.

12 (m) The standing order under Subsection (l) is not required
13 to be patient-specific, and the epinephrine auto-injector may be
14 administered to a person without a previously established
15 physician-patient relationship.

16 (n) Notwithstanding any other law, supervision or
17 delegation by a physician is considered adequate if the physician:

18 (1) periodically reviews the order; and

19 (2) is available through direct telecommunication as
20 needed for consultation, assistance, and direction.

21 (o) For purposes of Subsection (n)(2), a person who has been
22 delegated prescriptive authority under Chapter 157, Occupations
23 Code, is not engaged in the unauthorized practice of telemedicine
24 or acting outside the person's scope of practice by consulting a
25 physician as provided by that subdivision when prescribing an
26 epinephrine auto-injector in accordance with this section.

27 (p) An order issued under this section must contain:

- 1 (1) the name and signature of the prescriber;
2 (2) the name of the entity to which the order is
3 issued;
4 (3) the quantity of epinephrine auto-injectors to be
5 obtained and maintained under the order; and
6 (4) the date of issue.

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

10 (r) A person who in good faith takes, or fails to take, any
11 action under this section is immune from civil or criminal
12 liability or disciplinary action resulting from that action or
13 failure to act, including:

- 14 (1) issuing an order for epinephrine auto-injectors;
15 (2) supervising or delegating the administration of an
16 epinephrine auto-injector;
17 (3) possessing, maintaining, storing, or disposing of
18 an epinephrine auto-injector;
19 (4) prescribing an epinephrine auto-injector;
20 (5) dispensing an epinephrine auto-injector;
21 (6) administering, or assisting in administering, an
22 epinephrine auto-injector;
23 (7) providing, or assisting in providing, training,
24 consultation, or advice in the development, adoption, or
25 implementation of policies, guidelines, rules, or plans; or
26 (8) undertaking any other act permitted or required
27 under this section.

1 (s) The immunities and protections provided by this section
2 are in addition to other immunities or limitations of liability
3 provided by law.

4 (t) Notwithstanding any other law, this section does not
5 create a civil, criminal, or administrative cause of action or
6 liability or create a standard of care, obligation, or duty that
7 provides a basis for a cause of action for an act or omission under
8 this section.

9 (u) A cause of action does not arise from an act or omission
10 described by this section.

11 (v) An entity and entity employees or volunteers are immune
12 from suit resulting from an act, or failure to act, under this
13 section, including an act or failure to act under related policies
14 and procedures.

15 (w) An act or failure to act by entity employees or
16 volunteers under this section, including an act or failure to act
17 under related policies and procedures, is the exercise of judgment
18 or discretion on the part of the entity employee or volunteer and is
19 not considered to be a ministerial act for purposes of liability of
20 the entity.

21 SECTION 3. This Act takes effect September 1, 2019.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 23, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4260 by Cortez (Relating to the possession and administration of an epinephrine auto-injector by certain entities.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would authorize certain entities to adopt a policy regarding the maintenance, administration, and disposal of epinephrine auto-injectors. The bill would require 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 these policies. HHSC indicates that the provisions of the bill could be accomplished with existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission

LBB Staff: WP, SD, AKi, JQ, MNa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 18, 2019

TO: Honorable Lois W. Kolchhorst, Chair, Senate Committee on Health & Human Services

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4260 by Cortez (Relating to the possession and administration of an epinephrine auto-injector by certain entities.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would authorize certain entities to adopt a policy regarding the maintenance, administration, and disposal of epinephrine auto-injectors. The bill would require 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 these policies. HHSC indicates that the provisions of the bill could be accomplished with existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission

LBB Staff: WP, AKi, JQ, MNa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 10, 2019

TO: Honorable Lois W. Kolthorst, Chair, Senate Committee on Health & Human Services

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4260 by Cortez (Relating to the possession and administration of an epinephrine auto-injector by certain entities.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would authorize certain entities to adopt a policy regarding the maintenance, administration, and disposal of epinephrine auto-injectors. The bill would require 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 these policies. HHSC indicates that the provisions of the bill could be accomplished with existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission

LBB Staff: WP, AKi, JQ, MNa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 17, 2019

TO: Honorable Senfronia Thompson, Chair, House Committee on Public Health

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4260 by Cortez (Relating to the possession and administration of an epinephrine auto-injector by certain entities.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would authorize certain entities to adopt a policy regarding the maintenance, administration, and disposal of epinephrine auto-injectors. The bill would require 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 these policies. HHSC indicates that the provisions of the bill could be accomplished with existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission

LBB Staff: WP, AKi, JQ, MNa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 8, 2019

TO: Honorable Senfronia Thompson, Chair, House Committee on Public Health

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB4260** by Cortez (Relating to the possession and administration of an epinephrine auto-injector by certain entities.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would authorize certain entities to adopt a policy regarding the maintenance, administration, and disposal of epinephrine auto-injectors. The bill would require 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 these policies. HHSC indicates that the provisions of the bill could be accomplished with existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission

LBB Staff: WP, AKi, JQ, MNa