

House Bill 4260
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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) an institution of higher education or 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;

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

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

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

SENATE VERSION (CS)

SECTION 1. Same as House version.

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;

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

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

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

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

(d) A policy adopted under Subsection (c) must 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.

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

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

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

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

(f) Each entity that adopts a policy under Subsection (c) must have at least one entity employee or volunteer authorized and trained to administer an epinephrine auto-injector present during all hours the entity is open to the public or to the population that the entity serves, as applicable.

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

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

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

SENATE VERSION (CS)

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

(d) A policy adopted under Subsection (c) must 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.

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

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

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

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

(f) Each entity that adopts a policy under Subsection (c) must have at least one entity employee or volunteer authorized and trained to administer an epinephrine auto-injector present during all hours the entity is open to the public or to the population that the entity serves, as applicable.

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

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

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

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

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

(1) include information on:

(A) the signs and symptoms of anaphylaxis;

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

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

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

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

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

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

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

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

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

SENATE VERSION (CS)

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

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

(1) include information on:

(A) the signs and symptoms of anaphylaxis;

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

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

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

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

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

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

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

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

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

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

(1) periodically reviews the order; and

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

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

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

(1) the name and signature of the prescriber;

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

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

(4) the date of issue.

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

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

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

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

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

(4) prescribing an epinephrine auto-injector;

SENATE VERSION (CS)

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

(1) periodically reviews the order; and

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

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

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

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

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

(4) prescribing an epinephrine auto-injector;

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- (5) dispensing an epinephrine auto-injector;
(6) administering, or assisting in administering, an epinephrine auto-injector;
(7) providing, or assisting in providing, training, consultation, or advice in the development, adoption, or implementation of policies, guidelines, rules, or plans; or
(8) undertaking any other act permitted or required under this section.
(s) The immunities and protections provided by this section are in addition to other immunities or limitations of liability provided by law.
(t) Notwithstanding any other law, this section does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides a basis for a cause of action for an act or omission under this section.
(u) A cause of action does not arise from an act or omission described by this section.
(v) An entity and entity employees or volunteers are immune from suit resulting from an act, or failure to act, under this section, including an act or failure to act under related policies and procedures.
(w) An act or failure to act by entity employees or volunteers under this section, including an act or failure to act under related policies and procedures, is the exercise of judgment or discretion on the part of the entity employee or volunteer and is not considered to be a ministerial act for purposes of liability of the entity.

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

SENATE VERSION (CS)

- (5) dispensing an epinephrine auto-injector;
(6) administering, or assisting in administering, an epinephrine auto-injector;
(7) providing, or assisting in providing, training, consultation, or advice in the development, adoption, or implementation of policies, guidelines, rules, or plans; or
(8) undertaking any other act permitted or required under this section.
(s) The immunities and protections provided by this section are in addition to other immunities or limitations of liability provided by law.
(t) Notwithstanding any other law, this section does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides a basis for a cause of action for an act or omission under this section.
(u) A cause of action does not arise from an act or omission described by this section.
(v) An entity and entity employees or volunteers are immune from suit resulting from an act, or failure to act, under this section, including an act or failure to act under related policies and procedures.
(w) An act or failure to act by entity employees or volunteers under this section, including an act or failure to act under related policies and procedures, is the exercise of judgment or discretion on the part of the entity employee or volunteer and is not considered to be a ministerial act for purposes of liability of the entity.

SECTION 3. Same as House version.

CONFERENCE