

# SENATE BILL NO. 1260

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEWIS.

4650S.011

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 196.990, RSMo, and to enact in lieu thereof two new sections relating to allergies in child care facilities.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 196.990, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 196.990 and 210.225, to read as follows:

196.990. 1. As used in this section, the following terms shall mean:

(1) "Administer", the direct application of an epinephrine [auto-injector] **delivery device** to the body of an individual;

(2) "Authorized entity", any entity or organization at or in connection with which allergens capable of causing anaphylaxis may be present including, but not limited to, qualified first responders, as such term is defined in section 321.621, restaurants, recreation camps, youth sports leagues, **child care facilities**, amusement parks, and sports arenas. "Authorized entity" shall not include any public school or public charter school;

(3) "Epinephrine [auto-injector] **delivery device**", a single-use device used for the [automatic injection] **delivery** of a premeasured dose of epinephrine into the human body;

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18           (4) "Physician", a physician licensed in this state  
19 under chapter 334;

20           (5) "Provide", the supply of one or more epinephrine  
21 **[auto-injectors] delivery devices** to an individual;

22           (6) "Self-administration", a person's discretionary  
23 use of an epinephrine **[auto-injector] delivery device**.

24           2. A physician may prescribe epinephrine **[auto-**  
25 **injectors] delivery devices** in the name of an authorized  
26 entity for use in accordance with this section, and  
27 pharmacists, physicians, and other persons authorized to  
28 dispense prescription medications may dispense epinephrine  
29 **[auto-injectors] delivery devices** under a prescription  
30 issued in the name of an authorized entity.

31           3. An authorized entity may acquire and stock a supply  
32 of epinephrine **[auto-injectors] delivery devices** under a  
33 prescription issued in accordance with this section. Such  
34 epinephrine **[auto-injectors] delivery devices** shall be  
35 stored in a location readily accessible in an emergency and  
36 in accordance with the epinephrine **[auto-injector's]**  
37 **delivery device's** instructions for use and any additional  
38 requirements established by the department of health and  
39 senior services by rule. An authorized entity shall  
40 designate employees or agents who have completed the  
41 training required under this section to be responsible for  
42 the storage, maintenance, and general oversight of  
43 epinephrine **[auto-injectors] delivery devices** acquired by  
44 the authorized entity.

45           4. An authorized entity that acquires a supply of  
46 epinephrine **[auto-injectors] delivery devices** under a  
47 prescription issued in accordance with this section shall  
48 ensure that:

(1) Expected epinephrine **[auto-injector] delivery device** users receive training in recognizing symptoms of severe allergic reactions including anaphylaxis and the use of epinephrine **[auto-injectors] delivery devices** from a nationally recognized organization experienced in training laypersons in emergency health treatment or another entity or person approved by the department of health and senior services;

(2) All epinephrine **[auto-injectors] delivery devices** are maintained and stored according to the epinephrine **[auto-injector's] delivery device's** instructions for use;

(3) Any person who provides or administers an epinephrine **[auto-injector] delivery device** to an individual who the person believes in good faith is experiencing anaphylaxis activates the emergency medical services system as soon as possible; and

(4) A proper review of all situations in which an epinephrine **[auto-injector] delivery device** is used to render emergency care is conducted.

5. Any authorized entity that acquires a supply of epinephrine **[auto-injectors] delivery devices** under a prescription issued in accordance with this section shall notify the emergency communications district or the ambulance dispatch center of the primary provider of emergency medical services where the epinephrine **[auto-injectors] delivery devices** are to be located within the entity's facility.

6. No person shall provide or administer an epinephrine **[auto-injector] delivery device** to any individual who is under eighteen years of age without the verbal consent of a parent or guardian who is present at the time when provision or administration of the epinephrine

81 [auto-injector] **delivery device** is needed. Provided,  
82 however, that a person may provide or administer an  
83 epinephrine [auto-injector] **delivery device** to such an  
84 individual without the consent of a parent or guardian if  
85 the parent or guardian is not physically present and the  
86 person reasonably believes the individual shall be in  
87 imminent danger without the provision or administration of  
88 the epinephrine [auto-injector] **delivery device**.

89 7. The following persons and entities shall not be  
90 liable for any injuries or related damages that result from  
91 the administration or self-administration of an epinephrine  
92 [auto-injector] **delivery device** in accordance with this  
93 section that may constitute ordinary negligence:

94 (1) An authorized entity that possesses and makes  
95 available epinephrine [auto-injectors] **delivery devices** and  
96 its employees, agents, and other trained persons;

97 (2) Any person who uses an epinephrine [auto-injector]  
98 **delivery device** made available under this section;

99 (3) A physician that prescribes epinephrine [auto-  
100 injectors] **delivery devices** to an authorized entity; or

101 (4) Any person or entity that conducts the training  
102 described in this section.

103 Such immunity does not apply to acts or omissions  
104 constituting a reckless disregard for the safety of others  
105 or willful or wanton conduct. The administration of an  
106 epinephrine [auto-injector] **delivery device** in accordance  
107 with this section shall not be considered the practice of  
108 medicine. The immunity from liability provided under this  
109 subsection is in addition to and not in lieu of that  
110 provided under section 537.037. An authorized entity  
111 located in this state shall not be liable for any injuries

or related damages that result from the provision or administration of an epinephrine **[auto-injector] delivery device** by its employees or agents outside of this state if the entity or its employee or agent is not liable for such injuries or related damages under the laws of the state in which such provision or administration occurred. No trained person who is in compliance with this section and who in good faith and exercising reasonable care fails to administer an epinephrine **[auto-injector] delivery device** shall be liable for such failure.

8. All basic life support ambulances and stretcher vans operated in the state shall be equipped with epinephrine **[auto-injectors] delivery devices** and be staffed by at least one individual trained in the use of epinephrine **[auto-injectors] delivery devices**.

9. The provisions of this section shall apply in all counties within the state and any city not within a county.

10. Nothing in this section shall be construed as superseding the provisions of section 167.630.

**210.225. 1. This section shall be known and may be cited as "Elijah's Law".**

**2. (1) Before July 1, 2028, each licensed child care provider shall adopt a policy on allergy prevention and response with priority given to addressing potentially deadly food-borne allergies. Such policy shall contain, but shall not be limited to, the following elements:**

**(a) Distinguishing between building-wide, room-level, and individual approaches to allergy prevention and management;**

**(b) Providing an age-appropriate response to building-level and room-level allergy education and prevention;**

13           (c) Describing the role of child care facility staff  
14 in determining how to manage an allergy problem, whether  
15 through a plan prepared for a child under Section 504 of the  
16 Rehabilitation Act of 1973, as amended, for a child with an  
17 allergy that has been determined to be a disability, an  
18 individualized health plan for a child who has an allergy  
19 that is not disabling, or another allergy management plan;

20           (d) Describing the role of other children and parents  
21 in cooperating to prevent and mitigate allergies;

22           (e) Addressing confidentiality issues involved with  
23 sharing medical information, including specifying when  
24 parental permission is required to make medical information  
25 available; and

26           (f) Coordinating with the department of elementary and  
27 secondary education, local health authorities, and other  
28 appropriate entities to ensure efficient promulgation of  
29 accurate information and to ensure that existing child care  
30 facility safety and environmental policies do not conflict.

31           (2) Such policies may contain information from or  
32 links to child care facility allergy prevention information  
33 furnished by the Food Allergy and Anaphylaxis Network or  
34 equivalent organization with a medical advisory board that  
35 has allergy specialists.

36           3. The department of elementary and secondary  
37 education shall, in cooperation with any appropriate  
38 professional association, develop a model policy or policies  
39 before July 1, 2027.

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