

HB

277

26-LS0951\S
Bullard
3/26/10

CS FOR HOUSE BILL NO. 277()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES PEGGY WILSON AND LYNN

A BILL

FOR AN ACT ENTITLED

1 **"An Act requiring the Department of Health and Social Services to adopt standards for**
2 **the approval of and to approve certain training programs relating to the possession of**
3 **epinephrine and the administration of epinephrine in emergency situations; and**
4 **authorizing certain individuals to obtain a prescription for epinephrine, purchase**
5 **epinephrine, and administer epinephrine in emergency situations."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 *** Section 1. AS 17 is amended by adding a new chapter to read:**

8 **Chapter 22. Use of Epinephrine in Emergency Situations.**

9 **Sec. 17.22.010. Prescription, purchase, and administration of epinephrine**
10 **by a trained individual. An individual who is 18 years of age or older may obtain a**
11 **prescription for and purchase, and may, in an emergency situation, administer**
12 **epinephrine using**

13 **(1) an auto-injector, if the individual has successfully completed a**

1 training program approved by the department under AS 17.22.020(b); or

2 (2) an ampule, if the individual has successfully completed a training
3 program approved by the department under AS 17.22.020(c).

4 **Sec. 17.22.020. Approval of training programs.** (a) The department shall
5 adopt standards for the approval of training programs for the use of

6 (1) epinephrine auto-injectors; and

7 (2) epinephrine ampules.

8 (b) The department shall approve an auto-injector training program that meets
9 standards adopted under (a)(1) of this section. The standards must require an
10 epinephrine auto-injector program to provide training in

11 (1) techniques on how to recognize symptoms of severe asthmatic or
12 allergic reactions, including anaphylaxis;

13 (2) standards and procedures for the storage of epinephrine auto-
14 injectors and administration of epinephrine using auto-injectors; and

15 (3) emergency follow-up procedures.

16 (c) The department shall approve an epinephrine ampule training program that
17 meets standards adopted under (a)(2) of this section. The standards must require an
18 epinephrine ampule program to provide training in

19 (1) techniques on how to recognize symptoms of severe asthmatic or
20 allergic reactions, including anaphylaxis;

21 (2) standards and procedures for the storage of epinephrine ampules
22 and administration of epinephrine using ampules; and

23 (3) emergency follow-up procedures.

24 **Sec. 17.22.030. Applicability.** This chapter does not apply to a person who is
25 authorized under another law to administer epinephrine or to a person who is
26 prescribed epinephrine for personal use.

27 **Sec. 17.22.040. Liability of certified individual.** A claim for relief may not be
28 brought against an individual who has successfully completed a training program
29 approved by the department under AS 17.22.020 for an act or omission relating to the
30 administration of epinephrine to another individual in an emergency situation if the
31 individual who completed the training program acted in good faith under the authority

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granted by this chapter.

Sec. 17.22.090. Definitions. In this chapter,

- (1) "department" means the Department of Health and Social Services;
- (2) "emergency situation" means a circumstance where an individual experiences a severe asthmatic or allergic reaction, including anaphylaxis, that requires the administration of epinephrine to avoid severe injury or death and where a certified or licensed health care provider authorized to administer epinephrine is not available.

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10 epinephrine auto-injector program to provide training in

11 (1) techniques on how to recognize symptoms of severe asthmatic or
12 allergic reactions, including anaphylaxis;

13 (2) standards and procedures for the storage of epinephrine auto-
14 injectors and administration of epinephrine using auto-injectors; and

15 (3) emergency follow-up procedures.

16 (c) The department shall approve an epinephrine ampule training program that
17 meets standards adopted under (a)(2) of this section. The standards must require an
18 epinephrine ampule program to provide training in

19 (1) techniques on how to recognize symptoms of severe asthmatic or
20 allergic reactions, including anaphylaxis;

21 (2) standards and procedures for the storage of epinephrine ampules
22 and administration of epinephrine using ampules; and

23 (3) emergency follow-up procedures.

24 **Sec. 17.22.030. Applicability.** This chapter does not apply to a person who is
25 authorized under another law to administer epinephrine or to a person who is
26 prescribed epinephrine for personal use.

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28 brought against an individual who has successfully completed a training program
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30 administration of epinephrine to another individual in an emergency situation if the
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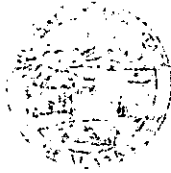
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(2.)

ALASKA STATE LEGISLATURE

Interim:
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Wrangell, AK 99929
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Fax: (907) 874-3055



Session:
State Capitol, Room 406
Juneau, AK 99801-1182
Phone: (907) 465-3824
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REPRESENTATIVE PEGGY WILSON
HOUSE DISTRICT 2

SPONSOR STATEMENT House Bill 277

“An Act establishing a program in the Department of Health and Social Services to certify certain individuals to be issued a prescription to administer epinephrine and to possess and administer epinephrine in certain situations.”

House Bill 277 allows individuals who have passed a departmentally-approved program to purchase and administer epinephrine.

Epinephrine (adrenalin) is used in emergency situations to combat severe allergic reactions, anaphylactic shock and heart attacks.

It is difficult to foresee the possibility of an allergic reaction when an individual has no known allergies. A victim of an allergic reaction can go into anaphylactic shock and medical attention may not be readily available. During these situations, the administration of epinephrine could be necessary to save a victim's life. Under current statute, the administrator can be held personally liable.

The passage of this bill would increase access to this life-saving medication, maintain and increase available safety measures, and reduce personal liability for acts of good faith.

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**REPRESENTATIVE PEGGY WILSON
HOUSE DISTRICT 2**

Sectional

Committee Substitute for House Bill 277

“An Act requiring the Department of Health and Social Services to approve training programs to certify individuals to possess epinephrine and to administer epinephrine in emergency situations; and authorizing certified individuals to obtain a prescription for, purchase, and possess epinephrine, and to administer epinephrine in emergency situations.”

Section 1:

- An individual who successfully completes training requirements may obtain a prescription for epinephrine, purchase it, and may in an emergency situation administer epinephrine either through epinephrine auto-injectors or ampules.
- Department of Health and Social Services shall approve a set of standards for the training of both epinephrine auto-injectors and ampules.
- Applicability does not apply to an authorized administrator or to someone already prescribed epinephrine.
- Outlines liability of the certified individual.
- Defines “certified individual,” “department,” and “emergency situations.”

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2 **programs to certify individuals to possess epinephrine and to administer epinephrine in**
3 **emergency situations; and authorizing certified individuals to obtain a prescription for,**
4 **purchase, and possess epinephrine, and to administer epinephrine in emergency**
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11 **may obtain a prescription for and purchase, and may, in an emergency situation,**
12 **administer epinephrine using**

13 **(1) an auto-injector, if certified under AS 17.22.020(b); or**

1 (2) an ampule, if certified under AS 17.22.020(c).

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5 (2) epinephrine ampules.

6 (b) The department shall approve an auto-injector training and certification
7 program that meets standards adopted under (a)(1) of this section. The standards must
8 require an epinephrine auto-injector program to provide training and certification in

9 (1) techniques on how to recognize symptoms of severe asthmatic or
10 allergic reactions, including anaphylaxis;

11 (2) standards and procedures for the storage of epinephrine auto-
12 injectors and administration of epinephrine using auto-injectors; and

13 (3) emergency follow-up procedures.

14 (c) The department shall approve an epinephrine ampule training and
15 certification program that meets standards adopted under (a)(2) of this section. The
16 standards must require an epinephrine ampule program to provide training and
17 certification in

18 (1) techniques on how to recognize symptoms of severe asthmatic or
19 allergic reactions, including anaphylaxis;

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21 and administration of epinephrine using ampules; and

22 (3) emergency follow-up procedures.

23 **Sec. 17.22.030. Applicability.** This chapter does not apply to a person who is
24 authorized under another law to administer epinephrine or to a person who is
25 prescribed epinephrine for personal use.

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27 brought against a certified individual for an act or omission relating to the
28 administration of epinephrine to another individual in an emergency situation if the
29 individual acted in good faith under the authority granted by this chapter.

30 **Sec. 17.22.090. Definitions.** In this chapter,

31 (1) "certified individual" means an individual certified by a training

- 1 program approved by the department under AS 17.20.020;
- 2 (2) "department" means the Department of Health and Social Services;
- 3 (3) "emergency situation" means a circumstance where an individual
- 4 experiences a severe asthmatic or allergic reaction, including anaphylaxis, that
- 5 requires the administration of epinephrine to avoid severe injury or death and where a
- 6 licensed health care provider authorized to administer epinephrine is not available.



EXECUTIVE SUMMARY

Introduction

In 1999 the Washington State Legislature passed the "Kristine Kastner Act" (SHB 1992) requiring the Department of Health, with the respective House and Senate Health Care Committees, to prepare a report on the statewide incidence of anaphylaxis (severe allergic reactions) and the training and care necessary to allow Emergency Medical Technicians (EMTs) to carry and administer epinephrine. This legislation was driven by the concern that EMTs are not currently trained to diagnose the need for epinephrine by emergency patients they encounter. Epinephrine, when appropriately administered to the patient experiencing anaphylaxis or severe allergic reaction, may be required to save the patient's life.

This report includes data on the incidence of anaphylaxis statewide, and information on a pilot training program to determine the training and care standards necessary for EMTs to carry and administer epinephrine. Also included is an estimate of costs to provide that training. Recommendations are provided on the identification of any mitigating circumstances such as age, patient care protocols and specific signs and symptoms required to determine whether to administer epinephrine.

Recommendations



Education and Training -

- Training EMTs to safely administer epinephrine to anaphylaxis patients less than 30 years old must:
 - include no less than two hours didactic time;
 - include department-approved educational objectives; and
 - include a written and practical assessment of each EMT by the instructor.
- Instructors of new epinephrine material must be recommended by the county EMS Medical Program Director (Physician responsible for oversight of EMS personnel in each county) and approved by DOH.
- To maintain effective quality assurance of EMT performance, medical program directors must evaluate and report to DOH every use of epinephrine by EMTs and any anaphylaxis death in their monthly report.
- To retain knowledge and skill competency, each EMT's required Continuing Medical Education must include the use of epinephrine for anaphylaxis during each certification period (3 years).

Supplies -

All licensed basic life support vehicles must carry at least one adult and one pediatric auto-injector of 1:1000 epinephrine for anaphylaxis.

Mitigating Factors -

Age Factors:

- Based upon the limits of the pilot program, for patients who do not have a prescription or parental request, we recommend epinephrine be administered to persons under the age of 30.

Signs & Symptoms:

- To ensure safe administration of epinephrine to persons, EMTs may only administer epinephrine when signs and/or symptoms of anaphylaxis include respiratory distress or hypoperfusion.

Medical Control

- Usual medical program director specific methods of on-line/offline medical control will be followed.

From: Mike Motti [mailto:mikemotti@mac.com]
Sent: Friday, January 22, 2010 9:06 AM
To: Rep. Peggy Wilson
Subject: HB 277

Rep Wilson: I fully support this bill. I have been involved in EMS in Alaska since 1973 and have been teaching wilderness medicine for 20 years. However, as currently written, the Department is going to attach a huge fiscal note to the bill. I respectfully suggest that the wording be changed to direct the Section of EMS and Emergency Preparedness to approve the TRAINING COURSES, and that anyone showing a current certification card for one of these courses be allowed to purchase epinephrine without a prescription.

Right now the State EMS Training Committee approves CPR courses. They meet 3 times a year, and could approve epi training courses during their meetings without any significant expense to the State.

Respectfully,

Mike Motti
Sitka, Alaska

From: messa@mtaonline.net

I am writing to ask that you have HB277 CERTIFY EMERGENCY USE OF EPINEPHRINE heard and voted on this session. I recently received my Wilderness First Responder (WFR) Certification. The reason I took the course is that I work in wilderness settings, for many years, as an outdoor educator with youth. I have been very fortunate to not have a trip go bad from an emergency stand point. I have come close a few times. A big worry I have is the need to treat Anaphylaxis or Severe Asthma in the field. Many of my clients have Epinephrine (Epi)prescribed to them and they carry it. There are other clients that may not know they have the predisposition to Anaphylaxis. The way the law is now I cannot administer Epi to this person because it is not prescribed to them. If I had a physicians order on hand I could, but in todays litigious society most physicians won't stick their neck out. I also subject my clients to stress, new environments and new natural vegetation (nature). These things can exacerbate Asthma to severe levels. Epi would give my Asthmatic clients a fighting chance if a severe attack occurs. I dread the day when, under the current law, I have to make a chance at life with the use of Epi or death because I am not allowed, by law, to administer the drug to my client. Please support HB277 and the many people who enjoy the wilds of Alaska. Thank You. Roger Gossett (907)746-3181.

~ Roger Gossett
Zip Code: 99645
Voter ID: I have one

The curriculum for training of people to deliver epi via epi pen has been developed by the American Heart Association, Wilderness Medical Society and the Red Cross. These plans are geared to the general public, are included with CPR instruction and would suit the requirements for training for the proposed bill.

I think that the Department should be able to review and endorse any or all of these nationally approved training modules to do the job.

If there are any other questions I can help with, let me know.

Bobbi Leichty, Director
SEREMS
907-747-8005

Here are summaries of enacted New Jersey and Utah laws from 2007 and 2008. These are specific to epinephrine administration. There are some bills specific to peanut allergies that have not been included in this list.

New Jersey

School allergy - Student Epinephrine Administration

(2006) NJ S **SPONSOR:** Kean
79 **COSPONSOR(S):** Turner, Coniglio, Sarlo, Martin, Asselta N, McNamara, Sweeney
TITLE: Student Epinephrine Administration
INTRODUCED: 01/10/2006
ENACTED: 03/16/2007
DISPOSITION: Enacted
LOCATION: Chaptered
CHAPTER: 2007-57
SUMMARY:
Clarifies law concerning the emergency administration of epinephrine to students for anaphylaxis, increases number of delegates trained to administer epinephrine; requires a plan to reduce student exposure to allergens.
STATUS:
03/16/2007 Signed by GOVERNOR.
03/16/2007 Chapter No. 2007-57

Utah - epi-pen use for Anaphylactic Reaction

(2007) UT H **AUTHOR:** Kiser
56 **TITLE:** Emergency Injection for Anaphylactic Reaction Act
INTRODUCED: 01/15/2007
ENACTED: 03/07/2007
DISPOSITION: Enacted
LOCATION: Chaptered
CHAPTER: 037
SUMMARY:
Amends the Emergency Injection for Anaphylactic Reaction Act; authorizes the Department of Health to approve training programs for the use and storage of epinephrine auto-injectors in an emergency; authorizes the department to conduct educational programs to train people in the use and storage of EPI pens; establishes a standard for when a person has a need for training in the use of epinephrine auto-injectors; authorizes a trained person to obtain a prescription for the auto-injector.
STATUS:
04/02/2007 Chaptered. Chapter No. 037

(2008) UT H **AUTHOR:** Kiser
101 **TITLE:** Anaphylactic Emergency Injections
INTRODUCED: 01/21/2008
ENACTED: 03/14/2008
DISPOSITION: Enacted
LOCATION: Chaptered
CHAPTER: 064
SUMMARY:
Provides that a school, school board, or school official may not prohibit or dissuade a teacher or other school employee from possessing, storing, administering, or receiving training to administer an epinephrine auto-injector; requires schools to make an emergency epinephrine auto-injector available to any qualified employee; requires primary and secondary school training regarding the storage and use of an epinephrine auto-injector to a teacher or school employee who volunteers to take the training.
STATUS:
04/02/2008 Chaptered. Chapter No. 064

The following are recently enacted laws:

New York - school allergy

New York AB 4051 (Enacted 8/15/2007)

The law enacts the Food Allergy and Anaphylaxis Management Act. The law requires that an anaphylactic policy is established for school districts for the prevention and treatment of anaphylaxis.

(2007) NY A **SPONSOR:** Rivera J
4051 **TITLE:** Food Allergy and Anaphylaxis Management Act
INTRODUCED: 01/31/2007
ENACTED: 08/15/2007
DISPOSITION: Enacted
LOCATION: Chaptered
CHAPTER: 579

SUMMARY:

Enacts Food Allergy and Anaphylaxis Management Act; provides for the establishment of an anaphylactic policy for school districts for the prevention of anaphylaxis and during a medical emergency resulting from anaphylaxis.

STATUS:

08/15/2007 Signed by GOVERNOR.
08/15/2007 Chapter No. 579

Nevada – School based administration of anaphylaxis medications – enacted

NV AB 182 **Requires principals and school nurses to allow pupils to self-administer prescribed medications for asthma and anaphylaxis under certain circumstances**

Relating to pupils; requiring a principal or a school nurse of a public school to allow pupils to self-administer prescribed medications for asthma and anaphylaxis under certain circumstances; and providing other matters properly relating thereto. (9.6 KB)

Matches:
allergen,
allergic, allergy,
food

05/09/2005 Approved by the Governor. Chapter 43.

Below is some additional information on the web site of the food allergy and anaphylaxis network, including training materials about how to use an epi-pen and permission/planning forms for who may administer in an emergency:

<http://www.foodallergy.org/section/schoolchildcare>

<http://www.foodallergy.org/page/food-allergy-action-plan1>

<http://www.foodallergy.org/files/FAAP.pdf>

Also, there was federal legislation proposed in 2009:

At the federal level, the Food Allergy and Anaphylaxis Management Act (FAAMA), which calls for voluntary national guidelines to help schools manage students affected by food allergy and anaphylaxis is pending:

S.456 and HR.1378.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 29, 2010

SUBJECT: Epinephrine: Immunity for responding to an emergency
(CSHB 277() ; Work Order No. 26-LS0951\5)

TO: Representative Peggy Wilson
Attn: Michael Dunning

FROM: Tamara Brandt Cook
Director *TBC*

You ask how the provision in CSHB 277() addressing immunity from suit differs from the general Good Samaritan statute.

Sec. 17.22.040 of the bill draft prevents a claim from being brought for an act or omission against a person who (1) has completed an approved training program for the use of epinephrine auto-injectors or epinephrine ampules; (2) administers epinephrine to another; (3) does so in an emergency situation; and (4) acts in good faith under the authority granted in AS 17.22. For purposes of (3) an "emergency situation" is defined in sec. 17.22.090 to mean:

a circumstance where an individual experiences a severe asthmatic or allergic reaction, including anaphylaxis, that requires the administration of epinephrine to avoid severe injury or death and where a certified or licensed health care provider authorized to administer epinephrine is not available.

This is a narrow grant of immunity that will not apply in some situations that involve the use of epinephrine to aid another person. For example, if the epinephrine is administered but the situation does not meet the definition of "emergency situation" because the victim's reaction is due to heart attack, stroke, diabetes, or some other cause, or the epinephrine turns out not to be required to avoid injury or death, the immunity provided in sec. 17.22.040 will not apply.

Some of those situations might still be covered by the general Good Samaritan statute that broadly applies to emergency aid found at AS 09.65.090. It provides:

(a) A person at a hospital or any other location who renders emergency care or emergency counseling to an injured, ill, or emotionally distraught person who reasonably appears to the person rendering the aid

Representative Peggy Wilson

March 29, 2010

Page 2

to be in immediate need of emergency aid in order to avoid serious harm or death is not liable for civil damages as a result of an act or omission in rendering emergency aid.

.....
(d) This section does not preclude liability for civil damages as a result of gross negligence or reckless or intentional misconduct.

Since cases involving liability or immunity for negligence are often fact specific, there may be some situations when a trained individual administers epinephrine but does not enjoy immunity under AS 17.22.040. In those situations, the individual might be granted immunity under AS 09.65.090. It does not appear that either statute precludes potential application of the other.

Note that Alaska statutes contain other provisions granting immunity or limited immunity in particular situations. AS 08.64.366 (liability for services rendered by a mobile intensive care paramedic) uses language somewhat similar to that in sec. 17.22.040. In addition to other specific grants of immunity in AS 09.65, examples are AS 18.08.086 (liability for services rendered by certain medical professionals); AS 14.30.325(b) (surrogate parents); AS 44.21.450 (volunteer guardians).

TBC:med
10-063.med