SENATE DOCKET, NO. 1033 FILED ON: 1/15/2015

SENATE . . . . . No. 1220

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to reduce the risks associated with allergic reactions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Karen E. Spilka	*Second Middlesex and Norfolk*

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SENATE . . . . . No. 1220

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 1220) of Karen E. Spilka for legislation to reduce the risks associated with allergic reactions. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1100* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to reduce the risks associated with allergic reactions.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 111 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after section 224 the following section:-

Section 225. (a) Notwithstanding any general or special law to the contrary, the Department of Public Health shall promulgate regulations to allow businesses and other entities to be prescribed epinephrine auto-injectors for the purposes of:

(1) providing an epinephrine auto-injector for immediate self-administration to any individual that an employee, designated individual, agent of the business, or other entity believes in good faith may be experiencing anaphylaxis, regardless of whether the individual has a prescription for an epinephrine auto-injector or has previously been diagnosed as being at risk of anaphylaxis due to an allergy; and

11 (2) administering an epinephrine auto-injector to any individual by an employee,
12 designated individual, or agent who has successfully completed the applicable training required
13 by regulation in accordance with this section.

14 (b) A business or other entity that possesses and makes available epinephrine auto-
15 injectors in accordance with this section and its employees, designated individuals, and agents;
16 an individual authorized to administer epinephrine auto-injectors pursuant to subsection (c); a
17 health care professional that prescribes or dispenses epinephrine auto-injectors pursuant to this
18 section; and a person who conducts the applicable training shall not be liable for any injuries or
19 damages that result from any act or omission related to the administration or self-administration
20 of an epinephrine auto-injector in accordance with this section that may constitute ordinary
21 negligence. This immunity does not apply to acts or omissions constituting gross, willful, or
22 wanton negligence. The administration of an epinephrine auto-injector in accordance with this
23 section is not the practice of medicine.

24 (c) Any business or other entity that possesses epinephrine auto-injectors pursuant to this
25 section may make such epinephrine auto-injectors available to individuals other than those
26 trained individuals described in subsection (a), and such individuals may administer such
27 epinephrine auto-injectors to any individual believed in good faith to be experiencing
28 anaphylaxis, if the epinephrine auto-injectors are stored in a locked, secure container and are
29 made available only upon remote authorization by a licensed physician or nurse practitioner after
30 consultation with the physician or nurse practitioner by audio, televideo, or other similar means
31 of electronic communication. Consultation with a physician or nurse practitioner for this purpose
32 shall not be considered the practice of telemedicine or otherwise be construed as violating any
33 law or rule regulating the physician or nurse practitioner's practice.

34 SECTION 2. (a) No later than 180 days following enactment, the department of public
35 health shall adopt regulations necessary to carry out the provisions of this act. The regulations
36 adopted shall:

37 (1) Require each business or other entity that acquires epinephrine auto-injectors in
38 accordance with this section to submit, on a form developed by the department, a report of each
39 incident on the premises of the business or other entity involving a severe allergic reaction or the
40 administration of an epinephrine auto-injector.

41 (2) Provide for the development and publication of an annual report by the department
42 compiling, summarizing, and analyzing all incident reports submitted pursuant to paragraph (1)
43 of this section.

44 (3) Establish detailed standards for training programs that must be completed by
45 employees, designated individual, and agents of a business or other entity prior to administering
46 an epinephrine auto-injector made available by the business or other entity. Such training shall
47 be conducted by a licensed physician or nurse practitioner or by a nationally recognized
48 organization experienced in training laypersons in emergency health treatment approved by the
49 department. Training may be conducted online and, at a minimum, shall cover:

50 (i) techniques on how to recognize symptoms of severe allergic reactions, including
51 anaphylaxis;

52 (ii) standards and procedures for the storage and administration of an epinephrine auto-
53 injector; and

54 (iii) emergency follow-up procedures.

55 SECTION 3. The department may establish a certification program to recognize a
56 business or other entity has complied with the provisions of this act and maintains an allergy-
57 friendly environment within which to work or visit.