

# SENATE . . . . . No. 1220

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## 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:

*Karen E. Spilka*

DISTRICT/ADDRESS:

*Second Middlesex and Norfolk*

# SENATE . . . . . No. 1220

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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.

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[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:*

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

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

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

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

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

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

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

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

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

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

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

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

(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.