

SENATE No. 2468

The Commonwealth of Massachusetts

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

SENATE, Thursday, July 28, 2016

The committee on Ways and Means to whom was referred the petition (accompanied by bill, Senate, No. 1220) of Karen E. Spilka for legislation to reduce the risks associated with allergic reactions,- reports the accompanying bill (Senate, No. 2468).

For the committee,
Karen E. Spilka

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 94C of the General Laws is hereby amended by inserting after
2 section 19D the following section:-

3 Section 19E. (a) As used in this section and unless the context clearly requires otherwise,
4 "epinephrine auto-injector" shall mean a medical device for injecting a measured dose or doses of
5 epinephrine by means of auto-injector technology.

6 (b) A licensed pharmacist may dispense an epinephrine auto-injector to a designated
7 representative of a restaurant in accordance with written, standardized procedures or protocols
8 developed by an actively practicing physician registered with the commissioner to distribute or
9 dispense a controlled substance in the course of professional practice pursuant to section 7;
10 provided, however, that the procedures or protocols developed by such physician are filed at the
11 pharmacist's place of practice and with the board of registration in pharmacy before
12 implementation.

13 (c) A pharmacist dispensing an epinephrine auto-injector under this section shall annually
14 provide a report to the department that includes the number of times an epinephrine auto-injector
15 is dispensed. Reports made pursuant to this section shall be confidential and shall not be public
16 records as defined in clause Twenty-sixth of section 7 of chapter 4.

17 (e) The department, the board of registration in medicine and the board of registration in
18 pharmacy shall adopt regulations to implement this section.

19 SECTION 2. Chapter 111 of the General Laws is hereby amended by adding the
20 following section:-

21 Section 236. (a) Notwithstanding any general or special law to the contrary, a restaurant
22 may maintain a reasonable supply of epinephrine auto-injectors, that are not patient specific,
23 pursuant to section 19E of chapter 94C, to provide an epinephrine auto-injector for: (i)
24 immediate self-administration by an individual who indicates that they are experiencing
25 anaphylaxis and have a prescription for an epinephrine auto-injector or have been previously
26 diagnosed as being at risk of anaphylaxis due to an allergy; (ii) immediate administration to an
27 individual by an immediate family member or caregiver or (iii) immediate administration to an
28 individual by a licensed health care professional who is trained and authorized to identify
29 anaphylaxis and administer epinephrine.

30 (b) A restaurant that maintains and makes available epinephrine auto-injectors pursuant
31 to this section shall not be liable for injuries or damages that result from an act or omission
32 related to the administration or self-administration of an epinephrine auto-injector in accordance
33 with this section, unless the act or omission constitutes gross, willful or wanton negligence. The

34 administration of an epinephrine auto-injector pursuant to this section shall not be considered the
35 practice of medicine.

36 (c) A restaurant that maintains an epinephrine auto-injector pursuant to this section shall
37 provide the health department or board of health in the municipality where it is located with
38 information regarding an epinephrine auto-injector stored on the premises within 3 business days
39 of being dispensed to the designated representative of a restaurant under section 19E of chapter
40 94C. The information shall include the location and method of secure storage for the
41 epinephrine auto-injector on the premises and the dose, expiration date and protocol for
42 replacement of the epinephrine auto-injector. A restaurant shall also provide a report, in a form
43 and manner determined by the department, of each administration of an epinephrine auto-injector
44 on the premises to the department and to the health department or board of health in the
45 municipality where it is located.

46 (d) A health department or board of health in the municipality that receives notification
47 from a restaurant of an epinephrine auto-injector placed on the premises of the restaurant
48 pursuant to this section shall include an examination of the epinephrine auto-injector on the
49 premises in its annual restaurant inspections to ensure that the epinephrine auto-injector is placed
50 and stored in accordance with the information filed by the establishment and that it has not
51 expired.

52 (e) Annually, not later than March 1, the department shall provide a report on its website
53 of any reports of administration of an epinephrine auto-injector received pursuant to subsection
54 (c).

55 SECTION 3. The department of public health may establish a certification program to
56 recognize a restaurant that has complied with this act.

57 SECTION 4. The department of public health shall adopt regulations necessary to carry
58 out this act not later than January 1, 2017.

59 SECTION 5. This act shall take effect on January 1, 2017.