

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 15-1232

BY REPRESENTATIVE(S) Ginal and Landgraf, Buckner, Esgar, Fields, Mitsch Bush, Pettersen, Primavera, Rosenthal, Ryden, Salazar, Tyler, Vigil, Williams, Young, Hullinghorst;
also SENATOR(S) Todd and Martinez Humenik, Kefalas, Kerr, Newell.

CONCERNING THE EMERGENCY USE OF EPINEPHRINE AUTO-INJECTORS BY AUTHORIZED ENTITIES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 47 to title 25 as follows:

ARTICLE 47

Use of Epinephrine Injectors by Authorized Entities

25-47-101. Definitions. AS USED IN THIS ARTICLE:

(1) "ADMINISTER" MEANS TO DIRECTLY APPLY AN EPINEPHRINE AUTO-INJECTOR TO THE BODY OF AN INDIVIDUAL.

(2) "AUTHORIZED ENTITY" MEANS AN ENTITY OR ORGANIZATION,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

OTHER THAN A SCHOOL DESCRIBED IN SECTION 22-1-119.5, C.R.S., OR A HOSPITAL LICENSED OR CERTIFIED PURSUANT TO SECTION 25-1.5-103 (1) (a) (I) (A) OR 25-1.5-103 (1) (a) (II), AT WHICH ALLERGENS CAPABLE OF CAUSING ANAPHYLAXIS MAY BE PRESENT. THE TERM INCLUDES BUT IS NOT LIMITED TO RECREATION CAMPS, COLLEGES AND UNIVERSITIES, DAY CARE FACILITIES, YOUTH SPORTS LEAGUES, AMUSEMENT PARKS, RESTAURANTS, PLACES OF EMPLOYMENT, SKI AREAS, AND SPORTS ARENAS.

(3) "EMERGENCY PUBLIC ACCESS STATION" OR "EPAS" MEANS A LOCKED, SECURE CONTAINER USED TO STORE EPINEPHRINE AUTO-INJECTORS FOR USE UNDER THE GENERAL OVERSIGHT OF A MEDICAL PROFESSIONAL, WHICH ALLOWS A LAY RESCUER TO CONSULT WITH A MEDICAL PROFESSIONAL IN REAL TIME BY AUDIO, TELEVIDEO, OR OTHER SIMILAR MEANS OF ELECTRONIC COMMUNICATION. UPON AUTHORIZATION OF THE CONSULTING MEDICAL PROFESSIONAL, AN EPAS MAY BE UNLOCKED TO MAKE AN EPINEPHRINE AUTO-INJECTOR AVAILABLE.

(4) "EPINEPHRINE AUTO-INJECTOR" MEANS A SINGLE-USE DEVICE USED FOR THE AUTOMATIC INJECTION OF A PREMEASURED DOSE OF EPINEPHRINE INTO THE HUMAN BODY.

(5) "HEALTH CARE PRACTITIONER" MEANS A PERSON AUTHORIZED BY LAW TO PRESCRIBE ANY DRUG OR DEVICE, ACTING WITHIN THE SCOPE OF HIS OR HER AUTHORITY.

(6) "MEDICAL PROFESSIONAL" MEANS A PHYSICIAN OR OTHER PERSON AUTHORIZED BY APPLICABLE LAW TO PRESCRIBE DRUGS IN THIS STATE OR ANOTHER STATE.

(7) "PHARMACIST" HAS THE MEANING SET FORTH IN SECTION 12-42.5-102 (28), C.R.S.

(8) "PROVIDE" MEANS TO SUPPLY ONE OR MORE EPINEPHRINE AUTO-INJECTORS TO AN INDIVIDUAL.

25-47-102. Stock supply of epinephrine auto-injectors - emergency administration. (1) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY:

(a) **Prescribing to an authorized entity permitted.** A HEALTH

CARE PRACTITIONER MAY DIRECT THE DISTRIBUTION OF EPINEPHRINE AUTO-INJECTORS FROM AN IN-STATE PRESCRIPTION DRUG OUTLET TO AN AUTHORIZED ENTITY FOR USE IN ACCORDANCE WITH THIS ARTICLE, AND HEALTH CARE PRACTITIONERS MAY DISTRIBUTE EPINEPHRINE AUTO-INJECTORS TO AN AUTHORIZED ENTITY; AND

(b) **Authorized entities permitted to maintain supply.** AN AUTHORIZED ENTITY MAY ACQUIRE AND STOCK A SUPPLY OF EPINEPHRINE AUTO-INJECTORS PURSUANT TO A PRESCRIPTION ISSUED IN ACCORDANCE WITH THIS SECTION.

(2) EPINEPHRINE AUTO-INJECTORS MUST BE STORED:

(a) IN A LOCATION THAT WILL BE READILY ACCESSIBLE IN AN EMERGENCY;

(b) ACCORDING TO THE APPLICABLE INSTRUCTIONS FOR USE; AND

(c) IN COMPLIANCE WITH ANY ADDITIONAL REQUIREMENTS THAT MAY BE ESTABLISHED BY THE DEPARTMENT OF HEALTH.

(3) AN AUTHORIZED ENTITY SHALL DESIGNATE EMPLOYEES OR AGENTS WHO HAVE COMPLETED THE TRAINING REQUIRED BY SECTION 25-47-104 TO BE RESPONSIBLE FOR THE STORAGE, MAINTENANCE, CONTROL, AND GENERAL OVERSIGHT OF EPINEPHRINE AUTO-INJECTORS ACQUIRED BY THE AUTHORIZED ENTITY.

25-47-103. Use of epinephrine auto-injectors. (1) AN EMPLOYEE OR AGENT OF AN AUTHORIZED ENTITY OR OTHER INDIVIDUAL WHO HAS COMPLETED THE TRAINING REQUIRED BY SECTION 25-47-104 MAY USE EPINEPHRINE AUTO-INJECTORS PRESCRIBED PURSUANT TO SECTION 25-47-102 TO PROVIDE OR ADMINISTER AN EPINEPHRINE AUTO-INJECTOR TO ANY INDIVIDUAL WHO THE EMPLOYEE, AGENT, OR OTHER INDIVIDUAL BELIEVES IN GOOD FAITH IS EXPERIENCING ANAPHYLAXIS, REGARDLESS OF WHETHER THE INDIVIDUAL HAS A PRESCRIPTION FOR AN EPINEPHRINE AUTO-INJECTOR OR HAS PREVIOUSLY BEEN DIAGNOSED WITH AN ALLERGY, OR TO PROVIDE AN EPINEPHRINE AUTO-INJECTOR TO A FAMILY MEMBER, FRIEND, COLLEAGUE, CAREGIVER, OR PERSON WITH A SIMILAR RELATIONSHIP WITH THE INDIVIDUAL; AND

(2) THE ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR IN ACCORDANCE WITH THIS SECTION IS NEITHER THE PRACTICE OF MEDICINE NOR OF ANY OTHER PROFESSION THAT REQUIRES LICENSURE.

25-47-104. Training. (1) AN EMPLOYEE, AGENT, OR OTHER INDIVIDUAL MUST COMPLETE AN ANAPHYLAXIS TRAINING PROGRAM BEFORE USING AN EPINEPHRINE AUTO-INJECTOR. THE TRAINING MUST BE CONDUCTED BY A NATIONALLY RECOGNIZED ORGANIZATION EXPERIENCED IN TRAINING LAYPERSONS IN EMERGENCY HEALTH TREATMENT OR BY AN INDIVIDUAL OR ENTITY APPROVED BY THE DEPARTMENT OF HEALTH. THE DEPARTMENT OF HEALTH MAY APPROVE SPECIFIC ENTITIES OR INDIVIDUALS TO CONDUCT TRAINING OR MAY APPROVE SPECIFIC CLASSES BY INDIVIDUALS OR ENTITIES. THE TRAINING MAY BE CONDUCTED ON-LINE OR IN-PERSON AND, AT A MINIMUM, MUST COVER:

(a) HOW TO RECOGNIZE THE SIGNS AND SYMPTOMS OF SEVERE ALLERGIC REACTIONS, INCLUDING ANAPHYLAXIS;

(b) THE STANDARDS AND PROCEDURES FOR THE STORAGE AND ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR; AND

(c) EMERGENCY FOLLOW-UP PROCEDURES.

(2) THE INDIVIDUAL OR ENTITY THAT CONDUCTS THE ANAPHYLAXIS TRAINING PROGRAM SHALL ISSUE A CERTIFICATE, ON A FORM DEVELOPED OR APPROVED BY THE DEPARTMENT OF HEALTH, TO EACH PERSON WHO SUCCESSFULLY COMPLETES THE ANAPHYLAXIS TRAINING PROGRAM.

25-47-105. Reporting. AN AUTHORIZED ENTITY THAT POSSESSES AND MAKES AVAILABLE EPINEPHRINE AUTO-INJECTORS SHALL SUBMIT TO THE DEPARTMENT OF HEALTH, ON A FORM DEVELOPED BY THE DEPARTMENT OF HEALTH, A REPORT OF EACH INCIDENT ON THE AUTHORIZED ENTITY'S PREMISES THAT INVOLVES THE ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR PURSUANT TO SECTION 25-47-103. THE DEPARTMENT OF HEALTH SHALL ANNUALLY PUBLISH A REPORT THAT SUMMARIZES AND ANALYZES ALL REPORTS SUBMITTED TO IT UNDER THIS SECTION.

25-47-106. Emergency public access stations - life-saving allergy medication. (1) NOTWITHSTANDING ANY LAW TO THE CONTRARY:

(a) A MEDICAL PROFESSIONAL MAY PRESCRIBE A STOCK SUPPLY OF EPINEPHRINE AUTO-INJECTORS TO ANY AUTHORIZED ENTITY FOR STORAGE IN AN EPAS, AND MAY PLACE A STOCK SUPPLY OF EPINEPHRINE AUTO-INJECTORS IN AN EPAS MAINTAINED BY AN AUTHORIZED ENTITY;

(b) A MEDICAL PROFESSIONAL MAY CONSULT THE USER OF AN EPAS AND MAKE THE EPINEPHRINE AUTO-INJECTORS STORED IN THE EPAS AVAILABLE TO THE USER; AND

(c) ANY PERSON MAY USE AN EPAS TO ADMINISTER OR PROVIDE AN EPINEPHRINE AUTO-INJECTOR TO AN INDIVIDUAL BELIEVED IN GOOD FAITH TO BE EXPERIENCING ANAPHYLAXIS OR TO PROVIDE AN EPINEPHRINE AUTO-INJECTOR TO A FAMILY MEMBER, FRIEND, COLLEAGUE, CAREGIVER, OR PERSON WITH A SIMILAR RELATIONSHIP WITH THE INDIVIDUAL.

(2) THE USE OF AN EPAS IN ACCORDANCE WITH THIS ARTICLE IS NEITHER THE PRACTICE OF MEDICINE NOR OF ANY OTHER PROFESSION THAT REQUIRES LICENSURE.

25-47-107. Good samaritan protections - liability. (1) THE FOLLOWING INDIVIDUALS AND ENTITIES ARE IMMUNE FROM CRIMINAL LIABILITY AND FROM SUIT IN ANY CIVIL ACTION BROUGHT BY ANY PERSON FOR INJURIES OR RELATED DAMAGES THAT RESULT FROM AN ACT OR OMISSION TAKEN PURSUANT TO THIS ARTICLE:

(a) AN AUTHORIZED ENTITY THAT POSSESSES AND MAKES AVAILABLE EPINEPHRINE AUTO-INJECTORS OR AN EPAS AND THE ENTITY'S EMPLOYEES, AGENTS, AND OTHER INDIVIDUALS;

(b) AN AUTHORIZED ENTITY THAT DOES NOT POSSESS OR MAKE AVAILABLE EPINEPHRINE AUTO-INJECTORS OR AN EPAS AND THE ENTITY'S EMPLOYEES, AGENTS, AND OTHER INDIVIDUALS;

(c) AN INDIVIDUAL OR ENTITY THAT CONDUCTS AN ANAPHYLAXIS TRAINING PROGRAM;

(d) AN INDIVIDUAL WHO PRESCRIBES OR DISPENSES AN EPINEPHRINE AUTO-INJECTOR;

(e) AN INDIVIDUAL WHO ADMINISTERS OR PROVIDES AN EPINEPHRINE

AUTO-INJECTOR;

(f) A MEDICAL PROFESSIONAL WHO CONSULTS THE USER OF AN EPAS AND MAKES THE EPINEPHRINE AUTO-INJECTORS STORED IN THE EPAS AVAILABLE TO THE USER; OR

(g) AN INDIVIDUAL WHO USES AN EPAS.

(2) IMMUNITY UNDER SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO ACTS OR OMISSIONS THAT ARE GROSSLY NEGLIGENT OR WILLFUL AND WANTON.

(3) THIS SECTION DOES NOT ELIMINATE, LIMIT, OR REDUCE ANY OTHER IMMUNITY OR DEFENSE THAT MAY BE AVAILABLE UNDER STATE LAW, INCLUDING THE PROTECTIONS SET FORTH IN SECTION 13-21-108, C.R.S. PROVIDING OR ADMINISTERING AN EPINEPHRINE AUTO-INJECTOR BY AN ENTITY OR INDIVIDUAL IS DEEMED EMERGENCY CARE OR EMERGENCY ASSISTANCE FOR PURPOSES OF SECTION 13-21-108, C.R.S.

(4) AN AUTHORIZED ENTITY LOCATED IN THIS STATE THAT PROVIDES OR ADMINISTERS AN EPINEPHRINE AUTO-INJECTOR OUTSIDE OF THIS STATE IS NOT LIABLE FOR ANY RESULTING INJURIES OR RELATED DAMAGES IF THE AUTHORIZED ENTITY:

(a) WOULD NOT BE LIABLE FOR THE INJURIES OR RELATED DAMAGES IF THE EPINEPHRINE AUTO-INJECTOR HAD BEEN PROVIDED OR ADMINISTERED IN THIS STATE; OR

(b) IS NOT LIABLE FOR INJURIES OR RELATED DAMAGES UNDER THE LAW OF THE STATE WHERE THE AUTHORIZED ENTITY PROVIDED OR ADMINISTERED THE EPINEPHRINE AUTO-INJECTOR.

25-47-108. Health care professionals - hospitals - obligations under state and federal law. NOTHING IN THIS ARTICLE LIMITS THE OBLIGATIONS OF A HEALTH CARE PROFESSIONAL OR HOSPITAL UNDER STATE OR FEDERAL LAW IN PRESCRIBING, STORING, OR ADMINISTERING DRUGS OR DEVICES.

SECTION 2. In Colorado Revised Statutes, 12-36-117, **amend** (1.8) as follows:

12-36-117. Unprofessional conduct. (1.8) A licensee shall IS not be subject to disciplinary action by the board for issuing standing orders and protocols regarding the use of epinephrine auto-injectors in a public or nonpublic school in accordance with the requirements of section 22-1-119.5, C.R.S., or for the actions taken by a school nurse or by any designated school personnel who administer epinephrine auto-injectors in accordance with the requirements of section 22-1-119.5, C.R.S., OR FOR PRESCRIBING EPINEPHRINE AUTO-INJECTORS IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 47 OF TITLE 25, C.R.S.

SECTION 3. In Colorado Revised Statutes, 12-38-125, **add** (1) (o) as follows:

12-38-125. Exclusions. (1) No provision of this article shall be construed to prohibit:

(o) A PRESCRIPTION BY AN ADVANCED PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY FOR THE USE OF EPINEPHRINE AUTO-INJECTORS BY AN AUTHORIZED ENTITY IN ACCORDANCE WITH ARTICLE 47 OF TITLE 25, C.R.S.

SECTION 4. In Colorado Revised Statutes, 12-42.5-102, **amend** (42) (b) (XV) as follows:

12-42.5-102. Definitions. As used in this article, unless the context otherwise requires or the term is otherwise defined in another part of this article:

(42) (b) "Wholesale distribution" does not include:

(XV) The distribution, donation, or sale by a manufacturer or wholesaler of a stock supply of epinephrine auto-injectors to public schools or nonpublic schools for emergency use by designated school personnel in accordance with the requirements of section 22-1-119.5, C.R.S., OR TO OTHER ENTITIES FOR EMERGENCY USE IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 47 OF TITLE 25, C.R.S.

SECTION 5. Appropriation. For the 2015-16 state fiscal year, \$23,736 is appropriated to the department of public health and environment for use by the disease control and environmental epidemiology division.

This appropriation is from the general fund and is based on an assumption that the division will require an additional 0.4 FTE. To implement this act, the division may use this appropriation for costs to implement this act.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO