

By Senator Bean

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1 A bill to be entitled
2 An act relating to emergency allergy treatment;
3 amending s. 381.88, F.S.; defining terms; expanding
4 provisions to apply to all emergency allergy
5 reactions, rather than to insect bites only; creating
6 s. 381.885, F.S.; authorizing certain health care
7 practitioners to prescribe epinephrine auto-injectors
8 to an authorized entity; authorizing such entities to
9 maintain a supply of epinephrine auto-injectors;
10 authorizing certified individuals to use epinephrine
11 auto-injectors; authorizing uncertified individuals to
12 use epinephrine auto-injectors under certain
13 circumstances; providing immunity from liability;
14 providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Section 381.88, Florida Statutes, is amended to
19 read:

20 381.88 ~~Insect sting~~ Emergency allergy treatment.—

21 (1) This section and s. 381.885 may be cited as the "~~Insect~~
22 ~~Sting~~ Emergency Allergy Treatment Act."

23 (2) As used in this section and s. 381.885, the term:

24 (a) "Administer" means to directly apply an epinephrine
25 auto-injector to the body of an individual.

26 (b) "Authorized entity" means an entity or organization at
27 or in connection with which allergens capable of causing a
28 severe allergic reaction may be present. The term includes, but
29 is not limited to, restaurants, recreation camps, youth sports

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30 leagues, theme parks and resorts, and sports arenas. However, a
31 school as described in s. 1002.20(3)(i) is an authorized entity
32 for the purposes of subsection (5) only.

33 (c) "Authorized health care practitioner" means a licensed
34 practitioner authorized by the laws of the state to prescribe
35 drugs.

36 (d) "Department" means the Department of Health.

37 (e) "Epinephrine auto-injector" means a single-use device
38 used for the automatic injection of a premeasured dose of
39 epinephrine into the human body.

40 (f) "Self-administration" means an individual's
41 discretionary administration of an epinephrine auto-injector on
42 herself or himself.

43 (3)~~(2)~~ The purpose of this section is to provide for the
44 certification of persons who administer lifesaving treatment to
45 persons who have severe allergic ~~adverse~~ reactions ~~to insect~~
46 ~~stings~~ when a physician is not immediately available.

47 (4)~~(3)~~ The department ~~of Health~~ may:

48 (a) Adopt rules necessary to administer this section.

49 (b) Conduct educational training programs as described in
50 subsection (5) ~~(4)~~, and approve programs conducted by other
51 persons or governmental agencies.

52 (c) Issue and renew certificates of training to persons who
53 have complied with this section and the rules adopted by the
54 department.

55 (d) Collect fees necessary to administer this section.

56 (5)~~(4)~~ Educational training programs required by this
57 section must be conducted by a nationally recognized
58 organization experienced in training laypersons in emergency

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59 health treatment or an entity or individual approved by the
60 department ~~physician licensed to practice medicine in this~~
61 ~~state.~~ The curriculum must include at a minimum:

62 (a) Recognition of the symptoms of systemic reactions to
63 food, insect stings, and other allergens; and

64 (b) The proper administration of an ~~a subcutaneous~~
65 ~~injection of~~ epinephrine auto-injector.

66 ~~(6)-(5)~~ A certificate of training may be given to a person
67 who:

68 (a) Is 18 years of age or older;

69 (b) Has, or reasonably expects to have, responsibility for
70 or contact with at least one other person ~~who has severe adverse~~
71 ~~reactions to insect stings~~ as a result of his or her
72 occupational or volunteer status, including, but not limited to,
73 a camp counselor, scout leader, school teacher, forest ranger,
74 tour guide, or chaperone; and

75 (c) Has successfully completed an educational training
76 program as described in subsection (4).

77 ~~(7)-(6)~~ A person who successfully completes an educational
78 training program may obtain a certificate upon payment of an
79 application fee of \$25.

80 ~~(8)-(7)~~ A certificate issued pursuant to this section
81 authorizes the holder ~~thereof~~ to receive, upon presentment of
82 the certificate, ~~from any physician licensed in this state or~~
83 ~~from the department,~~ a prescription for ~~premeasured doses of~~
84 epinephrine auto-injectors from an authorized health care
85 practitioner or the department ~~and the necessary paraphernalia~~
86 ~~for administration.~~ The certificate also authorizes the holder
87 ~~thereof to possess and administer,~~ in an emergency situation

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88 when a physician is not immediately available, to possess and
89 administer a ~~the~~ prescribed epinephrine auto-injector to a
90 person experiencing ~~suffering~~ a severe allergic ~~adverse~~ reaction
91 ~~to an insect sting.~~

92 Section 2. Section 381.885, Florida Statutes, is created to
93 read:

94 381.885 Epinephrine auto-injectors; emergency
95 administration.-

96 (1) PRESCRIBING TO AN AUTHORIZED ENTITY.-An authorized
97 health care practitioner may prescribe epinephrine auto-
98 injectors in the name of an authorized entity for use in
99 accordance with this section, and pharmacists may dispense
100 epinephrine auto-injectors pursuant to a prescription issued in
101 the name of an authorized entity.

102 (2) MAINTENANCE OF SUPPLY.-An authorized entity may acquire
103 and stock a supply of epinephrine auto-injectors pursuant to a
104 prescription issued in accordance with this section. Such
105 epinephrine auto-injectors must be stored in accordance with the
106 epinephrine auto-injector's instructions for use and with any
107 additional requirements that may be established by the
108 department. An authorized entity shall designate employees or
109 agents who hold a certificate issued pursuant to s. 381.88 to be
110 responsible for the storage, maintenance, and general oversight
111 of epinephrine auto-injectors acquired by the authorized entity.

112 (3) USE OF EPINEPHRINE AUTO-INJECTORS.-An individual who
113 holds a certificate issued pursuant to s. 381.88 may, on the
114 premises of or in connection with the authorized entity, use
115 epinephrine auto-injectors prescribed pursuant to subsection (1)
116 to:

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117 (a) Provide an epinephrine auto-injector to a person who
118 the certified individual in good faith believes is experiencing
119 a severe allergic reaction for that person's immediate self-
120 administration, regardless of whether the person has a
121 prescription for an epinephrine auto-injector or has previously
122 been diagnosed with an allergy.

123 (b) Administer an epinephrine auto-injector to a person who
124 the certified individual in good faith believes is experiencing
125 a severe allergic reaction, regardless of whether the person has
126 a prescription for an epinephrine auto-injector or has
127 previously been diagnosed with an allergy.

128 (4) EXPANDED AVAILABILITY.—An authorized entity that
129 acquires a stock supply of epinephrine auto-injectors pursuant
130 to a prescription issued by an authorized health care
131 practitioner in accordance with this section may make the auto-
132 injectors available to individuals other than certified
133 individuals identified in subsection (3) who may administer the
134 auto-injector to a person believed in good faith to be
135 experiencing a severe allergic reaction if the epinephrine auto-
136 injectors are stored in a locked, secure container and are made
137 available only upon remote authorization by an authorized health
138 care practitioner after consultation with the authorized health
139 care practitioner by audio, televideo, or other similar means of
140 electronic communication. Consultation with an authorized health
141 care practitioner for this purpose is not considered the
142 practice of telemedicine or otherwise construed as violating any
143 law or rule regulating the authorized health care practitioner's
144 professional practice.

145 (5) IMMUNITY FROM LIABILITY.—

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146 (a) The administration of an epinephrine auto-injector in
147 accordance with this section is not the practice of medicine.

148 (b) Any authorized health care practitioner who prescribes
149 epinephrine auto-injectors to an authorized entity or to an
150 individual that holds a certificate issued pursuant to s.
151 381.88; any authorized entity that possesses and makes available
152 epinephrine auto-injectors; any individual who holds a
153 certificate issued pursuant to s. 381.88; any noncertified
154 individual under subsection (4); and any person that conducts
155 the training under s. 381.88 is not liable for civil damages
156 that result from the administration or self-administration of an
157 epinephrine auto-injector, the failure to administer an
158 epinephrine auto-injector, or any other act or omission
159 committed, in good faith, pursuant to this section or s. 381.88.

160 (c) An authorized entity doing business in this state is
161 not liable for injuries or related damages that result from the
162 provision or administration of an epinephrine auto-injector by
163 its employees or agents outside this state if the entity or its
164 employees or agents would not have been liable for such injuries
165 or related damages had the provision or administration occurred
166 within this state, or would not have been liable under the law
167 of the state in which such provision or administration occurred.

168 (d) This section does not eliminate, limit, or reduce any
169 other immunity or defense that may be available under state law,
170 including the immunity provided under s. 768.13.

171 Section 3. This act shall take effect July 1, 2014.