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Legislative Document

No. 1125

H.P. 776

House of Representatives, March 26, 2015

An Act To Expand Public Access to Epinephrine Autoinjectors

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative PETERSON of Rumford.
Cosponsored by Senator HASKELL of Cumberland and
Representatives: BURSTEIN of Lincolnville, GATTINE of Westbrook, HEAD of Bethel,
MALABY of Hancock, McCABE of Skowhegan, SHORT of Pittsfield, Senator: BRAKEY of
Androscoggin.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA c. 423** is enacted to read:

3 **CHAPTER 423**

4 **ACCESS TO EPINEPHRINE AUTOINJECTOR**

5 **§2150-F. Definitions**

6 As used in this chapter, unless the context otherwise indicates, the following terms
7 have the following meanings.

8 **1. Administer.** "Administer" means to apply an epinephrine autoinjector directly to
9 a human body.

10 **2. Authorized entity.** "Authorized entity" means any entity, organization or place of
11 employment, other than a school under Title 20-A, section 6305, in connection with or at
12 which allergens capable of causing anaphylaxis may be present, including but not limited
13 to recreation camps, colleges, universities, day care facilities, youth sports leagues,
14 amusement parks, restaurants and sports arenas.

15 **3. Emergency public access station.** "Emergency public access station" means a
16 locked, secure container for the storage of epinephrine autoinjectors that is under the
17 general oversight of a health care practitioner who is available in real time by audio,
18 video or other similar means of electronic communication and that, upon authorization of
19 the consulting health care practitioner, may be unlocked to make available the
20 epinephrine autoinjectors.

21 **4. Epinephrine autoinjector.** "Epinephrine autoinjector" means a single-use device
22 used for the automatic injection of a premeasured dose of epinephrine into a human body.

23 **5. Health care practitioner.** "Health care practitioner" means an individual who is
24 licensed, registered or otherwise authorized in the appropriate jurisdiction to prescribe
25 and administer drugs in the course of professional practice.

26 **§2150-G. Epinephrine autoinjectors; emergency administration**

27 **1. Prescribing to an authorized entity permitted.** A health care practitioner may
28 prescribe epinephrine autoinjectors in the name of an authorized entity for use in
29 accordance with this section, and pharmacists and health care practitioners may dispense
30 epinephrine autoinjectors pursuant to a prescription issued in the name of an authorized
31 entity. A prescription authorized pursuant to this section is valid for 2 years.

32 **2. Authorized entities permitted to maintain supply.** An authorized entity may
33 acquire and stock a supply of epinephrine autoinjectors pursuant to a prescription issued
34 under subsection 1. An epinephrine autoinjector must be stored in a location readily
35 accessible in an emergency and in accordance with the instructions for use for the
36 epinephrine autoinjector and any additional requirements that may be established by the
37 department. An authorized entity shall designate employees or agents who have

1 completed the training required under subsection 4 to be responsible for the storage,
2 maintenance, control and general oversight of epinephrine autoinjectors acquired by the
3 authorized entity.

4 **3. Use of epinephrine autoinjectors.** An employee or agent of an authorized entity
5 who has completed the training required by subsection 4 may use epinephrine
6 autoinjectors prescribed pursuant to subsection 1 to:

7 A. Provide an epinephrine autoinjector to a person the employee or agent believes in
8 good faith is experiencing anaphylaxis, or the parent, guardian or caregiver of such a
9 person, for immediate administration, regardless of whether the person has a
10 prescription for an epinephrine autoinjector or has previously been diagnosed with an
11 allergy; and

12 B. Administer an epinephrine autoinjector to a person the employee or agent believes
13 in good faith is experiencing anaphylaxis, regardless of whether the person has a
14 prescription for an epinephrine autoinjector or has previously been diagnosed with an
15 allergy.

16 **4. Training.** An employee or agent of an authorized entity shall complete an
17 anaphylaxis training program and shall complete additional training at least every 2 years
18 thereafter. The training must be conducted by a nationally recognized organization
19 experienced in training nonprofessionals in emergency health treatment or an entity or
20 individual approved by the department. The department may approve specific entities or
21 individuals or may approve classes of entities or individuals to conduct training. Training
22 may be conducted online or in person and, at a minimum, must cover:

23 A. How to recognize signs and symptoms of severe allergic reactions, including
24 anaphylaxis;

25 B. Standards and procedures for the storage and administration of an epinephrine
26 autoinjector; and

27 C. Emergency follow-up procedures.

28 The entity or individual that conducts the training shall issue a certificate, on a form
29 developed or approved by the department, to each person who successfully completes the
30 anaphylaxis training program.

31 **5. Immunity.** An authorized entity that possesses and makes available epinephrine
32 autoinjectors and its employees and agents; a health care practitioner that prescribes
33 epinephrine autoinjectors to an authorized entity; a pharmacist or health care practitioner
34 that dispenses epinephrine autoinjectors to an authorized entity; and an individual or
35 entity that conducts the training under subsection 4 may not be held liable for any injuries
36 or related damages that result from any act or omission taken in good faith pursuant to
37 this section except that this immunity does not apply to acts or omissions constituting
38 gross negligence or willful or wanton misconduct. The administration of an epinephrine
39 autoinjector in accordance with this section is not the practice of medicine or any other
40 profession that otherwise requires licensure. This subsection does not eliminate, limit or
41 reduce any other immunity or defense that may be available under the laws of this State,
42 including that provided under Title 14, section 164. An authorized entity located in this

1 State is not liable for any injuries or related damages that result from the provision or
2 administration of an epinephrine autoinjector outside of this State if the authorized entity
3 would not have been liable for such injuries or related damages had the provision or
4 administration occurred within this State.

5 **6. Reporting.** An authorized entity that possesses and makes available epinephrine
6 autoinjectors shall submit to the department, on a form developed by the department, a
7 report of each incident on the authorized entity's premises that involves the administration
8 of an epinephrine autoinjector pursuant to subsection 3. The department shall annually
9 publish a summary of all reports submitted to it under this subsection.

10 **§2150-H. Emergency public access stations**

11 **1. Emergency public access stations.** Notwithstanding any provision of Title 32,
12 chapters 2-B, 31, 48 and 117:

13 A. A health care practitioner may prescribe a stock supply of epinephrine
14 autoinjectors to an entity or organization for storage in an emergency public access
15 station or may place a stock supply of epinephrine autoinjectors at an entity or
16 organization in an emergency public access station in accordance with protocols
17 established by the health care practitioner and approved by the department;

18 B. A health care practitioner may provide consultation services to an individual
19 accessing an emergency public access station and may make the epinephrine
20 autoinjectors stored in the emergency public access station available to the individual
21 in accordance with protocols established by the health care practitioner and approved
22 by the department; and

23 C. An individual may use an emergency public access station and may administer or
24 provide an epinephrine autoinjector made available from the emergency public access
25 station to a person believed in good faith to be experiencing anaphylaxis or may
26 provide such an epinephrine autoinjector to the parent, guardian or caregiver of such
27 a person.

28 **2. Immunity.** A person, including an entity or organization at which an emergency
29 public access station is located, a health care practitioner and a user of an emergency
30 public access station, who undertakes in good faith any act or omission pursuant to this
31 section is not liable for any injuries or related damages that result from any such act or
32 omission except that this immunity does not apply to acts or omissions constituting gross
33 negligence or willful or wanton misconduct. This subsection does not eliminate, limit or
34 reduce any other immunity or defense that may be available under the laws of this State,
35 including that provided under Title 14, section 164. Use of an emergency public access
36 station in accordance with this section is not the practice of medicine or any other
37 profession that otherwise requires licensure.

38 **SUMMARY**

39 This bill allows entities, organizations and places of employment at which allergens
40 capable of causing anaphylaxis may be present, other than schools, to stock prescribed
41 epinephrine autoinjectors and administer them to persons believed in good faith to be

1 experiencing anaphylaxis and provides that those entities, organizations and places of
2 employment may not be held liable for any injuries or related damages that may result. It
3 requires training for employees or agents of such entities, organizations or places of
4 employment. It also provides for the establishment of emergency public access stations
5 to contain stocks of epinephrine autoinjectors, allows health care practitioners to stock
6 them with epinephrine autoinjectors and to provide individuals accessing the stations with
7 consultation services in real time by audio, video or other similar means of electronic
8 communication and provides that persons involved with the stations and acting in good
9 faith may not be held liable for any injuries or related damages that may result.