

(PRE-FILED)

---

By: **Delegate Stern**

Requested: August 21, 2000

Introduced and read first time: January 10, 2001

Assigned to: Environmental Matters

---

A BILL ENTITLED

1 AN ACT concerning

2 **Food Allergies - Emergency Administration of Subcutaneous Epinephrine**

3 FOR the purpose of providing immunity from liability under certain circumstances to  
4 certain individuals who administer subcutaneous injections of epinephrine  
5 under certain circumstances; requiring an ambulance to carry a supply of  
6 subcutaneous epinephrine for certain individuals; requiring public schools  
7 under certain circumstances to have a supply of subcutaneous epinephrine  
8 available for administration to certain individuals; requiring public schools to  
9 have an individual available for administering subcutaneous injections of  
10 epinephrine to certain individuals; authorizing the administration of  
11 subcutaneous injections of epinephrine by nonprofessional individuals under  
12 certain circumstances; requiring the Secretary of Health and Mental Hygiene to  
13 administer a program for the emergency treatment of severe allergic reactions  
14 to food or a food additive; authorizing certain persons in a food service facility to  
15 administer emergency subcutaneous injections of epinephrine under certain  
16 circumstances; requiring an individual who administers emergency  
17 subcutaneous injections of epinephrine under certain circumstances to report to  
18 and request assistance from emergency medical services; defining certain terms;  
19 and generally relating to the emergency administration of subcutaneous  
20 injections of epinephrine for severe allergic reactions.

21 BY adding to  
22 Article - Courts and Judicial Proceedings  
23 Section 5-427  
24 Annotated Code of Maryland  
25 (1998 Replacement Volume and 2000 Supplement)

26 BY repealing and reenacting, with amendments,  
27 Article - Courts and Judicial Proceedings  
28 Section 5-603  
29 Annotated Code of Maryland  
30 (1998 Replacement Volume and 2000 Supplement)

1 BY adding to  
2 Article - Education  
3 Section 7-420  
4 Annotated Code of Maryland  
5 (1999 Replacement Volume and 2000 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article - Education  
8 Section 13-515(c)(2)  
9 Annotated Code of Maryland  
10 (1999 Replacement Volume and 2000 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article - Health - General  
13 Section 13-701, 13-702, 13-704, and 13-707 through 13-709, inclusive, to be  
14 under the amended subtitle "Subtitle 7. Emergency Treatment Program  
15 for Allergic Reactions"; and 21-326  
16 Annotated Code of Maryland  
17 (2000 Replacement Volume)

18 BY repealing and reenacting, without amendments,  
19 Article - Health - General  
20 Section 13-703, 13-705, and 13-706  
21 Annotated Code of Maryland  
22 (2000 Replacement Volume)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - Courts and Judicial Proceedings**

26 5-427.

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
28 INDICATED.

29 (2) "FOOD SERVICE FACILITY" HAS THE MEANING STATED IN § 21-301(F)  
30 OF THE HEALTH - GENERAL ARTICLE.

31 (3) "PUBLIC SCHOOLS" HAS THE MEANING STATED IN § 1-101(K) OF THE  
32 EDUCATION ARTICLE.

33 (B) AN INDIVIDUAL WHO IS AN EMPLOYEE, LESSEE, MANAGER, OR OWNER OF  
34 A FOOD SERVICE FACILITY WHO ADMINISTERS SUBCUTANEOUS INJECTIONS OF  
35 EPINEPHRINE TO A PATRON WHO APPEARS TO BE HAVING A SEVERE ALLERGIC  
36 REACTION IS IMMUNE FROM CIVIL LIABILITY FOR THE INDIVIDUAL'S ACT OR

1 OMISSION WHILE ADMINISTERING SUBCUTANEOUS INJECTIONS OF EPINEPHRINE  
2 UNLESS THE ACT OR OMISSION IS GROSSLY NEGLIGENT.

3 (C) AN INDIVIDUAL WHO IS AN EMPLOYEE OR VOLUNTEER IN A PUBLIC  
4 SCHOOL WHO ADMINISTERS SUBCUTANEOUS INJECTIONS OF EPINEPHRINE TO AN  
5 EMPLOYEE OR STUDENT WHO APPEARS TO BE HAVING A SEVERE ALLERGIC  
6 REACTION IS IMMUNE FROM CIVIL LIABILITY FOR THE INDIVIDUAL'S ACT OR  
7 OMISSION WHILE ADMINISTERING SUBCUTANEOUS INJECTIONS OF EPINEPHRINE  
8 UNLESS THE ACT OR OMISSION IS GROSSLY NEGLIGENT.

9 5-603.

10 (a) A person described in subsection (b) of this section is not civilly liable for  
11 any act or omission in giving any assistance or medical care, if:

12 (1) The act or omission is not one of gross negligence;

13 (2) The assistance or medical care is provided without fee or other  
14 compensation; and

15 (3) The assistance or medical care is provided:

16 (i) At the scene of an emergency;

17 (ii) In transit to a medical facility; or

18 (iii) Through communications with personnel providing emergency  
19 assistance.

20 (b) Subsection (a) of this section applies to the following:

21 (1) An individual who is licensed by this State to provide medical care;

22 (2) A member of any State, county, municipal, or volunteer fire  
23 department, ambulance and rescue squad or law enforcement agency or of the  
24 National Ski Patrol System, or a corporate fire department responding to a call  
25 outside of its corporate premises, if the member:

26 (i) Has completed an American Red Cross course in advanced first  
27 aid and has a current card showing that status;

28 (ii) Has completed an equivalent of an American Red Cross course  
29 in advanced first aid, as determined by the Secretary of Health and Mental Hygiene;  
30 [or]

31 (iii) Is certified or licensed by this State as an emergency medical  
32 services provider; OR

33 (IV) HAS BEEN CERTIFIED TO ADMINISTER EMERGENCY  
34 SUBCUTANEOUS INJECTIONS EPINEPHRINE UNDER THE PROVISIONS OF TITLE 13,  
35 SUBTITLE 7 OF THE HEALTH - GENERAL ARTICLE;

1 (3) A volunteer fire department, ambulance and rescue squad whose  
2 members have immunity; and

3 (4) A corporation when its fire department personnel are immune under  
4 paragraph (2) of this subsection.

5 (c) An individual who is not covered otherwise by this section is not civilly  
6 liable for any act or omission in providing assistance or medical aid to a victim at the  
7 scene of an emergency, if:

8 (1) The assistance or aid is provided in a reasonably prudent manner;

9 (2) The assistance or aid is provided without fee or other compensation;  
10 and

11 (3) The individual relinquishes care of the victim when someone who is  
12 licensed or certified by this State to provide medical care or services becomes  
13 available to take responsibility.

14 **Article - Education**

15 7-420.

16 (A) EACH PUBLIC SCHOOL SHALL:

17 (1) ENSURE THAT AT LEAST 1 INDIVIDUAL IS AVAILABLE AT ALL TIMES  
18 WHO IS LICENSED, CERTIFIED, OR AUTHORIZED TO ADMINISTER SUBCUTANEOUS  
19 INJECTIONS OF EPINEPHRINE FOR THE TREATMENT OF SEVERE SYSTEMIC  
20 ALLERGIC REACTIONS TO FOOD, FOOD ADDITIVES, OR INSECT STINGS; AND

21 (2) KEEP AN EPINEPHRINE AUTO-INJECTOR DEVICE OR EQUIVALENT  
22 DEVICE AVAILABLE AT ALL TIMES FOR THE EMERGENCY ADMINISTRATION OF  
23 SUBCUTANEOUS INJECTIONS TO ADULTS OR CHILDREN.

24 (B) THE STATE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THE  
25 PROVISIONS OF THIS SECTION.

26 13-515.

27 (c) (2) The regulations shall, at a minimum, require:

28 (i) Each ambulance operated by the ambulance service to be  
29 equipped with adequate equipment and supplies to:

30 1. Care for the patients being transported; and

31 2. Communicate with the dispatcher;

32 (ii) At least 1 individual, in addition to the driver, be in attendance  
33 on the ambulance during each transport who:



1 ONGOING PROGRAM KNOWN AS THE PRIORITY-BASED ASSESSMENT OF FOOD  
2 ADDITIVES OF SUBSTANCES ADDED TO FOOD.

3 [(c)] (D) "Program" means the [Insect Sting] Emergency Treatment Program  
4 FOR ALLERGIC REACTIONS.

5 13-703.

6 The Department may:

7 (1) Adopt regulations for the administration of the Program;

8 (2) Collect fees necessary for the administration of the Program;

9 (3) Issue and renew certificates to persons meeting the requirements of  
10 this subtitle; and

11 (4) (i) Conduct educational training programs described in § 13-704  
12 (e) of this subtitle; and

13 (ii) Approve educational training programs conducted by other  
14 State agencies or private entities.

15 13-704.

16 (a) To qualify for a certificate, an individual shall meet the requirements of  
17 this section.

18 (b) The applicant shall be of good moral character.

19 (c) The applicant shall be at least 18 years old.

20 (d) The applicant shall have, or reasonably expect to have, responsibility for at  
21 least one other person as a result of the individual's occupation or volunteer status.

22 (e) (1) The applicant shall successfully complete an educational training  
23 program approved by the Department.

24 (2) Educational training programs required under this subsection shall:

25 (i) Be conducted by a physician licensed to practice medicine in  
26 this State under Title 14 of the Health Occupations Article; and

27 (ii) Include training in:

28 1. The recognition of the symptoms of systemic reactions to  
29 insect stings, FOOD, OR A FOOD ADDITIVE; and

30 2. The proper administration of a subcutaneous injection of  
31 epinephrine.

1 13-705.

2 An applicant for a certificate shall:

3 (1) Submit an application to the Department or a private or public entity  
4 on the form that the Department requires; and

5 (2) Pay to the Department or a private or public entity the application  
6 fee set by the Department.

7 13-706.

8 (a) The Department or a private or public entity shall issue a certificate to any  
9 applicant who meets the requirements of this subtitle.

10 (b) Each certificate shall include:

11 (1) The kind of certificate;

12 (2) The full name of the certificate holder; and

13 (3) A serial number.

14 (c) A replacement certificate may be issued to replace a lost, destroyed, or  
15 mutilated certificate if the certificate holder pays the certificate replacement fee.

16 (d) (1) The certificate shall be valid for 1 year.

17 (2) In order to renew the certificate for an additional year, the applicant  
18 shall:

19 (i) Successfully complete a refresher training program approved by  
20 the Department; or

21 (ii) Demonstrate proficiency to the Department or a private or  
22 public entity issuing certificates under this subtitle.

23 13-707.

24 An individual who is certified may:

25 (1) Upon presentment of a certificate, receive from any physician  
26 licensed to practice medicine in this State a prescription for premeasured doses of  
27 epinephrine and the necessary paraphernalia for the administration of a  
28 subcutaneous injection of epinephrine;

29 (2) Possess prescribed epinephrine and the necessary paraphernalia for  
30 the administration of a subcutaneous injection of epinephrine; and

31 (3) In an emergency situation when physician services or emergency  
32 medical services are not immediately available, administer a subcutaneous injection

1 of epinephrine to a person suffering or believed by the certificate holder to be  
2 suffering a severe adverse reaction to an insect sting, FOOD, OR A FOOD ADDITIVE.

3 13-708.

4 (a) A cause of action may not arise against a certificate holder authorized  
5 under this subtitle for any act or omission when the certificate holder is acting in good  
6 faith while rendering emergency treatment to a person suffering or believed by the  
7 certificate holder to be suffering a severe adverse reaction to an insect sting, FOOD, OR  
8 A FOOD ADDITIVE, except where the conduct of the certificate holder amounts to gross  
9 negligence, willful or wanton misconduct, or intentionally tortious conduct.

10 (b) A cause of action may not arise against any physician for any act or  
11 omission when the physician in good faith prescribes epinephrine and the necessary  
12 paraphernalia for the administration of a subcutaneous injection of epinephrine to an  
13 individual certified by the Department under § 13-706 of this subtitle.

14 (c) This section does not affect, and may not be construed as affecting, any  
15 immunities from civil liability or defenses established by any other provision of the  
16 Code or by common law to which a volunteer or physician may be entitled.

17 13-709.

18 (a) This subtitle may not be construed to create a duty upon any individual to  
19 obtain a certificate under this subtitle, and an individual may not be held civilly liable  
20 for failing to obtain a certificate under this subtitle.

21 (b) An individual may not be held civilly liable in any action arising from or in  
22 connection with the administration of A SUBCUTANEOUS INJECTION OF epinephrine  
23 by the individual solely because the individual did not possess a certificate issued  
24 under this subtitle.

25 21-326.

26 (a) Each food service facility which prepares food and provides seating for  
27 patrons shall post a diagram or illustrative directions on the use of manual  
28 maneuvers to prevent asphyxiation due to choking.

29 (b) [A person] AN INDIVIDUAL who applies the maneuvers depicted in a  
30 diagram posted under SUBSECTION (A) OF this section to remove food lodged in the  
31 throat of another is liable only if the [person's] INDIVIDUAL'S actions amount to gross  
32 negligence.

33 (C) AN EMPLOYEE, LESSEE, MANAGER, OR OWNER OF A FOOD SERVICE  
34 FACILITY WHO IS CERTIFIED UNDER THE PROVISIONS OF TITLE 13, SUBTITLE 7 OF  
35 THIS ARTICLE MAY USE AN EPINEPHRINE AUTO-INJECTOR OR EQUIVALENT DEVICE  
36 TO ADMINISTER A SUBCUTANEOUS INJECTION OF EPINEPHRINE TO ANY PATRON  
37 WHO APPEARS TO BE EXPERIENCING A SEVERE SYSTEMIC ALLERGIC REACTION.

1 (D) AS SOON AS IS PRACTICABLE, ANY INDIVIDUAL WHO ADMINISTERS A  
2 SUBCUTANEOUS INJECTION OF EPINEPHRINE UNDER SUBSECTION (C) OF THIS  
3 SECTION MUST DIAL 911 TO:

4 (1) REPORT THE ALLERGIC REACTION; AND

5 (2) REQUEST EMERGENCY MEDICAL SERVICES.

6 (E) AN EMPLOYEE, LESSEE, MANAGER, OR OWNER OF A FOOD SERVICE  
7 FACILITY WHO ADMINISTERS A SUBCUTANEOUS INJECTION OF EPINEPHRINE  
8 UNDER SUBSECTION (C) OF THIS SECTION IS LIABLE ONLY IF THE INDIVIDUAL'S  
9 ACTIONS AMOUNT TO GROSS NEGLIGENCE.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 October 1, 2001.