# **SENATE . . . . . . . . . . . . . . . . . . No. 1355**

## The Commonwealth of Massachusetts

### PRESENTED BY:

#### James T. Welch

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to reduce the risks associated with allergic reactions.

### PETITION OF:

NAME:

James T. Welch

DISTRICT/ADDRESS:

Hampden

#### 

By Mr. Welch, a petition (accompanied by bill, Senate, No. 1355) of James T. Welch for legislation to reduce the risks associated with allergic reactions. Public Health.

## The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court (2019-2020)

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.

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

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

SECTION 2. Chapter 111 of the General Laws is hereby amended by adding thefollowing 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

administration of an epinephrine auto-injector pursuant to this section shall not be considered thepractice 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.

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

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

4 of 5

- SECTION 3. The department of public health may establish a certification program to
   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, 2020.
- 59 SECTION 5. This act shall take effect on January 1, 2020.