

**S E C O N D**  
**E N R O L L M E N T**

COMMITTEE SUBSTITUTE

for

**H. B. 2648**

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(BY DELEGATE(S) PASDON, STANSBURY,  
ELLINGTON, STATLER, KURCABA, HOUSEHOLDER,  
FLEISCHAUER AND ROHRBACH)

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[Amended and Again Passed March 18, 2015;  
as a result of the objections of the Governor;  
in effect ninety days from passage.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-47-1, §16-47-2, §16-47-3, §16-47-4 and §16-47-5, all relating to availability and use of epinephrine auto-injectors; providing definitions; providing for legislative rules; providing for training; providing prescriptive authority to health care practitioners in certain circumstances; providing authority to pharmacists to dispense epinephrine auto-injectors in certain circumstances; providing for the storage and emergency use of epinephrine auto-injectors; providing that in certain circumstances the use of epinephrine auto-injectors is not

the practice of medicine; providing that in certain circumstances one authorized to prescribe, possess or train regarding epinephrine auto-injectors is not liable for civil damages; and providing that certain individuals who administer or provide an epinephrine auto-injector to a person is immune from liability for civil action unless the act or omission was grossly negligent or willful misconduct.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-47-1, §16-47-2, §16-47-3, §16-47-4 and §16-47-5, all to read as follows:

**ARTICLE 47. EPINEPHRINE AUTO-INJECTOR AVAILABILITY AND USE.**

**§16-47-1. Definitions.**

1 As used in this article the term:

2 (1) “Administer” means to directly apply an epinephrine  
3 auto-injector to the body of an individual.

4 (2) “Authorized entity” means an entity or organization  
5 where allergens capable of causing a severe allergic reaction  
6 may be present.

7 (3) “Authorized health care practitioner” means an allopathic  
8 physician licensed to practice pursuant to the provisions of  
9 article three, chapter thirty of this code and an osteopathic  
10 physician licensed to practice pursuant to the provisions of  
11 article fourteen, chapter thirty of this code.

12 (4) “Department” means the Department of Health and  
13 Human Resources.

14 (5) “Epinephrine auto-injector” means a single-use device  
15 used for the automatic injection of a premeasured dose of  
16 epinephrine into the human body.

17 (6) “Self-administration” means an individual’s  
18 discretionary administration of an epinephrine auto-injector on  
19 herself or himself.

**§16-47-2. Authority.**

1 The department may:

2 (1) Propose legislative rules for legislative approval in  
3 accordance with the provisions of article three, chapter twenty-  
4 nine-a of this code, necessary to administer this article; and

5 (2) Conduct and approve education training programs.

**§16-47-3. Educational training programs.**

1 Educational training programs shall be conducted by a  
2 nationally recognized organization experienced in training  
3 laypersons in emergency health treatment or an entity or  
4 individual approved by the department. The curriculum shall  
5 include at a minimum:

6 (1) Recognition of the symptoms of allergic reactions to  
7 food, insect stings and other allergens; and

8 (2) The proper administration of a subcutaneous injection of  
9 epinephrine auto-injector.

**§16-47-4. Prescriptive authority for epinephrine auto-injectors;  
emergency administration.**

1 (a) An authorized health care practitioner may prescribe an  
2 epinephrine injector to an authorized entity. A pharmacist may  
3 dispense an epinephrine auto-injectors pursuant to a prescription  
4 issued in the name of an authorized entity.

5 (b) An authorized entity may acquire and stock a supply of  
6 epinephrine auto-injectors pursuant to a prescription issued in

7 accordance with this section. The epinephrine auto-injectors  
8 shall be stored in accordance with the epinephrine auto-injector's  
9 instructions. An authorized entity shall designate employees or  
10 agents who are trained pursuant to section three of this article to  
11 be responsible for the storage, maintenance and general  
12 oversight of epinephrine auto-injectors.

13 (c) An individual trained pursuant to section three of this  
14 article may, on the premises of or in connection with the  
15 authorized entity, use epinephrine auto-injectors to:

16 (1) Provide an epinephrine auto-injector to a person who the  
17 trained individual in good faith believes is experiencing a severe  
18 allergic reaction for that person's immediate self-administration,  
19 regardless of whether the person has a prescription for an  
20 epinephrine auto-injector or has previously been diagnosed with  
21 an allergy; or

22 (2) Administer an epinephrine auto-injector to a person who  
23 the trained individual in good faith believes is experiencing a  
24 severe allergic reaction, regardless of whether the person has a  
25 prescription for an epinephrine auto-injector or has previously  
26 been diagnosed with an allergy.

**§16-47-5. Not practice of medicine; limits on liability.**

1 (a) The administration of an epinephrine auto-injector in  
2 accordance with this article is not the practice of medicine.

3 (b) An authorized health care practitioner who prescribes  
4 epinephrine auto-injectors to an authorized entity; an authorized  
5 entity that possesses and makes available epinephrine auto-  
6 injectors; and, an entity or person that conducts the training  
7 under section three of this article are not liable for civil damages  
8 that result from the administration or self-administration of an  
9 epinephrine auto-injector, the failure to administer an

10 epinephrine auto-injector, or any other act or omission  
11 committed, in good faith, pursuant to this article.

12 (c) An individual employed by an authorized entity who  
13 administers or provides an epinephrine auto-injection to a person  
14 as provided in this article is immune from liability for any civil  
15 action arising out of an act or omission resulting from the  
16 administration of the epinephrine auto-injection unless the act or  
17 omission was the result of the individual's gross negligence or  
18 willful misconduct.



That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2015.

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*Governor*

