S. 2092
To provide certain protections from civil liability with respect to the emergency administration of opioid overdose drugs.

IN THE SENATE OF THE UNITED STATES
MARCH 6, 2014
Mr. MARKEY introduced the following bill, which was read twice and referred to the Committee on the Judiciary

A BILL
To provide certain protections from civil liability with respect to the emergency administration of opioid overdose drugs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Opioid Overdose Reduction Act of 2014”.

SEC. 2. FINDINGS AND PURPOSE.
(a) FINDINGS.—Congress finds the following:

(1) Overdoses from opioids have increased dramatically in the United States.
(2) Deaths from drug overdose, largely from prescription pain relievers, have tripled among men and increased fivefold among women over the past decade.

(3) Nationwide, drug overdoses now claim more lives than car accidents.

(4) Death from heroin and other opioid overdoses can be prevented if the person who overdosed is timely administered an opioid overdose drug.

(5) Medical personnel as well as non-medical personnel can be trained to administer opioid overdose drugs safely and effectively.

(6) Several States, including Massachusetts, have established programs allowing for the administration of opioid overdose drugs by non-medical personnel, and those programs have saved lives.

(7) The willingness of medical and non-medical personnel to administer opioid overdose drugs may be deterred by potential civil liability, and the willingness of physicians to prescribe opioid overdose drugs to persons other than a patient may also be deterred by potential civil liability.

(b) PURPOSE.—The purpose of this Act is to save the lives of people who intentionally or inadvertently over-
dose on heroin or other opioids by providing certain prote-
tections from civil liability with respect to the emergency
administration of opioid overdose drugs.

SEC. 3. DEFINITIONS.

In this Act—

(1) the term “health care professional” means
a person licensed by a State to prescribe prescription
drugs;

(2) the term “opioid overdose drug” means a
drug that, when administered, reverses in whole or
part the pharmacological effects of an opioid over-
dose in the human body; and

(3) the term “opioid overdose program” means
a Federal, State, or local agency program or a pro-
gram funded by a Federal, State, or local govern-
ment that works to prevent opioid overdoses by, in
part, providing opioid overdose drugs and education
to individuals at risk of experiencing an opioid over-
dose or to a family member, friend, or other indi-
vidual in a position to assist an individual at risk of
experiencing an opioid overdose.

SEC. 4. PREEMPTION AND ELECTION OF STATE NON-
APPLICABILITY.

(a) PREEMPTION.—Except as provided in subsection
(b), this Act preempts the law of a State to the extent
that such law is inconsistent with this Act, except that
this Act shall not preempt any State law that provides
additional protection from liability relating to the admin-
istration of opioid overdose drugs or that shields from liabil-
ity any person who provides or administers opioid overdose
drugs.

(b) Election of State Regarding Nonapplicability.—Sections 5, 6, and 7 shall not apply to any civil
action in a State court against a person who administers
opioid overdose drugs if—

(1) all parties to the civil action are citizens of
the State in which such action is brought; and

(2) the State enacts legislation in accordance
with State requirements for enacting legislation—

(A) citing the authority of this subsection;

(B) declaring the election of the State that
such sections 5, 6, and 7 shall not apply, as of
a date certain, to any civil actions covered by
this Act; and

(C) containing no other provisions.

SEC. 5. LIMITATION ON CIVIL LIABILITY FOR HEALTH
CARE PROFESSIONALS WHO PROVIDE OPIOID
OVERDOSE DRUGS.

(a) In General.—Notwithstanding any other provi-
sion of law, a health care professional who prescribes or
provides an opioid overdose drug to an individual at risk
of experiencing an opioid overdose, or who prescribed or
provided an opioid overdose drug to a family member,
friend, or other individual in a position to assist an indi-
vidual at risk of experiencing an opioid overdose, shall not
be liable for harm caused by the use of the opioid overdose
drug if the individual to whom such drug is prescribed
or provided has been educated about opioid overdose pre-
vention and treatment by the health care professional or
as part of an opioid overdose program.

(b) Exception.—Subsection (a) shall not apply to
a health care professional if the harm was caused by the
gross negligence or reckless misconduct of the health care
professional.

SEC. 6. LIMITATION ON CIVIL LIABILITY FOR INDIVIDUALS
WORKING FOR OR VOLUNTEERING AT A
STATE OR LOCAL AGENCY OPIOID OVERDOSE
PROGRAM.

(a) In General.—Notwithstanding any other provi-
sion of law, except as provided in subsection (b), no indi-
vidual who provides an opioid overdose drug shall be liable
for harm caused by the emergency administration of an
opioid overdose drug by another individual if the indi-
vidual who provides such drug—
(1) works for or volunteers at an opioid overdose program; and

(2) provides the opioid overdose drug as part of the opioid overdose program to an individual authorized by the program to receive an opioid overdose drug.

(b) Exception.—Subsection (a) shall not apply if the harm was caused by the gross negligence or reckless misconduct of the individual who provides the drug.

SEC. 7. LIMITATION ON CIVIL LIABILITY FOR INDIVIDUALS WHO ADMINISTER OPIOID OVERDOSE DRUGS.

(a) In General.—Notwithstanding any other provision of law, except as provided in subsection (b), no individual shall be liable for harm caused by the emergency administration of an opioid overdose drug to an individual who has or reasonably appears to have suffered an overdose from heroin or other opioid, if—

(1) the individual who administers the opioid overdose drug obtained the drug from a health care professional or as part of an opioid overdose program; and

(2) was educated by the health care professional or an opioid overdose program in the proper administration of the opioid antagonist drug.
(b) EXCEPTION.—Subsection (a) shall not apply to an individual if the harm was caused by the gross negligence or reckless misconduct of the individual who administers the drug.