

113TH CONGRESS  
2D SESSION

# S. 2092

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

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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

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## A BILL

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

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Opioid Overdose Re-  
5       duction Act of 2014”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

7       (a) FINDINGS.—Congress finds the following:

8               (1) Overdoses from opioids have increased dra-  
9       matically in the United States.

1           (2) Deaths from drug overdose, largely from  
2           prescription pain relievers, have tripled among men  
3           and increased fivefold among women over the past  
4           decade.

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

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

11          (5) Medical personnel as well as non-medical  
12          personnel can be trained to administer opioid over-  
13          dose drugs safely and effectively.

14          (6) Several States, including Massachusetts,  
15          have established programs allowing for the adminis-  
16          tration of opioid overdose drugs by non-medical per-  
17          sonnel, and those programs have saved lives.

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

24          (b) PURPOSE.—The purpose of this Act is to save  
25          the lives of people who intentionally or inadvertently over-

1 dose on heroin or other opioids by providing certain pro-  
2 tections from civil liability with respect to the emergency  
3 administration of opioid overdose drugs.

4 **SEC. 3. DEFINITIONS.**

5 In this Act—

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

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

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

22 **SEC. 4. PREEMPTION AND ELECTION OF STATE NON-**  
23 **APPLICABILITY.**

24 (a) PREEMPTION.—Except as provided in subsection  
25 (b), this Act preempts the law of a State to the extent

1 that such law is inconsistent with this Act, except that  
 2 this Act shall not preempt any State law that provides  
 3 additional protection from liability relating to the adminis-  
 4 tration of opioid overdose drugs or that shields from liabil-  
 5 ity any person who provides or administers opioid overdose  
 6 drugs.

7 (b) ELECTION OF STATE REGARDING NONAPPLICA-  
 8 BILITY.—Sections 5, 6, and 7 shall not apply to any civil  
 9 action in a State court against a person who administers  
 10 opioid overdose drugs if—

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

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

15 (A) citing the authority of this subsection;

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

20 (C) containing no other provisions.

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

24 (a) IN GENERAL.—Notwithstanding any other provi-  
 25 sion of law, a health care professional who prescribes or

1 provides an opioid overdose drug to an individual at risk  
2 of experiencing an opioid overdose, or who prescribed or  
3 provided an opioid overdose drug to a family member,  
4 friend, or other individual in a position to assist an indi-  
5 vidual at risk of experiencing an opioid overdose, shall not  
6 be liable for harm caused by the use of the opioid overdose  
7 drug if the individual to whom such drug is prescribed  
8 or provided has been educated about opioid overdose pre-  
9 vention and treatment by the health care professional or  
10 as part of an opioid overdose program.

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

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

19 (a) IN GENERAL.—Notwithstanding any other provi-  
20 sion of law, except as provided in subsection (b), no indi-  
21 vidual who provides an opioid overdose drug shall be liable  
22 for harm caused by the emergency administration of an  
23 opioid overdose drug by another individual if the indi-  
24 vidual who provides such drug—

1           (1) works for or volunteers at an opioid over-  
2           dose program; and

3           (2) provides the opioid overdose drug as part of  
4           the opioid overdose program to an individual author-  
5           ized by the program to receive an opioid overdose  
6           drug.

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

10 **SEC. 7. LIMITATION ON CIVIL LIABILITY FOR INDIVIDUALS**

11 **WHO ADMINISTER OPIOID OVERDOSE DRUGS.**

12           (a) IN GENERAL.—Notwithstanding any other provi-  
13           sion of law, except as provided in subsection (b), no indi-  
14           vidual shall be liable for harm caused by the emergency  
15           administration of an opioid overdose drug to an individual  
16           who has or reasonably appears to have suffered an over-  
17           dose from heroin or other opioid, if—

18           (1) the individual who administers the opioid  
19           overdose drug obtained the drug from a health care  
20           professional or as part of an opioid overdose pro-  
21           gram; and

22           (2) was educated by the health care professional  
23           or an opioid overdose program in the proper admin-  
24           istration of the opioid antagonist drug.

1           (b) EXCEPTION.—Subsection (a) shall not apply to  
2 an individual if the harm was caused by the gross neg-  
3 ligence or reckless misconduct of the individual who ad-  
4 ministers the drug.

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