

SENATE BILL NO. 165

INTRODUCED BY CAFERRO, ARNTZEN

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A SCHOOL TO MAINTAIN A STOCK SUPPLY OF EPINEPHRINE TO BE USED IN THE EVENT OF AN ACTUAL OR PERCEIVED ANAPHYLAXIS EMERGENCY; AMENDING SECTION 20-5-420, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 20-5-420, MCA, is amended to read:

**"20-5-420. Self-administration or possession of asthma, severe allergy, or anaphylaxis medication.** (1) As used in [section 2] and this section, the following definitions apply:

(a) "Anaphylaxis" means a systemic allergic reaction that can be fatal in a short time period and is also known as anaphylactic shock.

(b) "Asthma" means a chronic disorder or condition of the lungs that requires lifetime, ongoing, medical intervention.

(c) "Medication" means a medicine, including inhaled bronchodilators, inhaled corticosteroids, and autoinjectable epinephrine, prescribed by a licensed physician as defined in 37-3-102, a physician assistant who has been authorized to prescribe medications as provided in 37-20-404, or an advanced practice registered nurse with prescriptive authority as provided in 37-8-202(1)(h).

(d) "Self-administration" means a pupil's discretionary use of the medication prescribed for the pupil.

(e) "Severe allergies" means a life-threatening hypersensitivity to a specific substance such as food, pollen, or dust.

(2) A school, whether public or nonpublic, shall permit the possession or self-administration of medication, as prescribed, by a pupil with asthma, severe allergies, or anaphylaxis if the parents or guardians of the pupil provide to the school:

(a) written authorization, acknowledging and agreeing to the liability provisions in subsection (4), for the possession or self-administration of medication, as prescribed;

(b) a written statement from the pupil's physician, physician assistant, or advanced practice registered nurse containing the following information:

- 1 (i) the name and purpose of the medication;
- 2 (ii) the prescribed dosage; and
- 3 (iii) the time or times at which or the special circumstances under which the medication is to be  
4 administered, as prescribed;
- 5 (c) documentation that the pupil has demonstrated to the health care practitioner and the school nurse,  
6 if available, the skill level necessary to self-administer the asthma, severe allergy, or anaphylaxis medication as  
7 prescribed; and
- 8 (d) documentation that the pupil's physician, physician assistant, or advanced practice registered nurse  
9 has formulated a written treatment plan for managing asthma, severe allergies, or anaphylaxis episodes of the  
10 pupil and for medication use, as prescribed, by the pupil during school hours.
- 11 (3) The information provided by the parents or guardians must be kept on file in the office of the school  
12 nurse or, in the absence of a school nurse, the school's administrator.
- 13 (4) The school district or nonpublic school and its employees and agents are not liable as a result of any  
14 injury arising from the self-administration of medication by the pupil unless an act or omission is the result of gross  
15 negligence, willful and wanton conduct, or an intentional tort. The parents or guardians of the pupil must be given  
16 a written notice and sign a statement acknowledging that the school district or nonpublic school may not incur  
17 liability as a result of any injury arising from the self-administration of medication by the pupil and that the parents  
18 or guardians shall indemnify and hold harmless the school district or nonpublic school and its employees and  
19 agents against any claims, except a claim based on an act or omission that is the result of gross negligence,  
20 willful ~~and or~~ wanton ~~conduct~~ misconduct, or an intentional tort.
- 21 (5) The permission for self-administration of asthma, severe allergy, or anaphylaxis medication is  
22 effective for the school year for which it is granted and must be renewed each subsequent school year or, if the  
23 medication expires or the dosage, frequency of administration, or other conditions change, upon fulfillment of the  
24 requirements of this section.
- 25 (6) If the requirements of this section are fulfilled, a pupil with asthma, severe allergies, or anaphylaxis  
26 may possess and use the pupil's medication, as prescribed:
- 27 (a) while in school;
- 28 (b) while at a school-sponsored activity;
- 29 (c) while under the supervision of school personnel;
- 30 (d) before or after normal school activities, such as while in before-school or after-school care on

1 school-operated property; or

2 (e) while in transit to or from school or school-sponsored activities.

3 (7) If provided by the parent, an individual who has executed a caretaker relative educational  
4 authorization affidavit pursuant to 20-5-503, an individual who has executed a caretaker relative medical  
5 authorization affidavit pursuant to 40-6-502, or a guardian and in accordance with documents provided by the  
6 pupil's physician, physician assistant, or advanced practice registered nurse, asthma, severe allergy, or  
7 anaphylaxis medication may be kept by the pupil and backup medication must be kept at a pupil's school in a  
8 predetermined location or locations to which the pupil has access in the event of an asthma, severe allergy, or  
9 anaphylaxis emergency.

10 (8) Immediately after using epinephrine during school hours, a student shall report to the school nurse  
11 or other adult at the school who shall provide followup care, including making a 9-1-1 emergency call.

12 (9) Youth correctional facilities are exempt from this section and shall adopt policies related to access  
13 and use of asthma, severe allergy, or anaphylaxis medications."  
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15 **NEW SECTION. Section 2. Emergency use of epinephrine in a school setting.** A school, whether  
16 public or nonpublic, may maintain a stock supply of autoinjectable epinephrine to be administered by a school  
17 nurse or other authorized personnel to any student or nonstudent as needed for actual or perceived anaphylaxis.  
18 A school that intends to obtain an order for emergency use of epinephrine in a school setting or at related  
19 activities shall adhere to the following requirements:

20 (1) A school that stocks an epinephrine autoinjector shall develop a protocol related to the training of  
21 school employees, the maintenance and location of the epinephrine autoinjector, and immediate and long-term  
22 followup to the administration of the medication, including making a 9-1-1 emergency call.

23 (2) The epinephrine autoinjector must be prescribed by a physician, advanced practice registered nurse,  
24 or physician assistant. The school must be designated as the patient, and each prescription for an epinephrine  
25 autoinjector must be filled by a licensed pharmacy.

26 (3) The school shall provide training to authorized personnel. The training must include causes of  
27 anaphylaxis, recognition of signs and symptoms of anaphylaxis, indications for the administration of epinephrine,  
28 administration technique, and the need for immediate access to a certified emergency responder. Training must  
29 be provided by a school nurse, ~~certified cardiopulmonary resuscitation instructor~~, certified emergency responder,  
30 or other health care professional.

1 (4) The epinephrine autoinjector must be kept in a secure and easily accessible location.

2 (5) A school nurse or other authorized personnel may, in good faith, administer the epinephrine to any  
3 student or nonstudent who is experiencing a potential life-threatening anaphylactic reaction based on the protocol  
4 developed by the school.

5 (6) If a school stocks an epinephrine autoinjector that has been prescribed to the school, that school shall  
6 inform parents or guardians about the potential use of the epinephrine autoinjector in an anaphylactic emergency.  
7 The school shall make the protocol available upon request.

8 (7) In accordance with the provisions of 27-1-714, a school district or nonpublic school and its employees  
9 and agents are not liable as a result of any injury arising from the administration of epinephrine to a student or  
10 nonstudent unless an act or omission is the result of gross negligence, willful or wanton misconduct, or an  
11 intentional tort.

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13 NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an  
14 integral part of Title 20, chapter 5, part 4, and the provisions of Title 20, chapter 5, part 4, apply to [section 2].

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16 NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2013.

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