

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0491.01 Debbie Haskins x2045

HOUSE BILL 13-1171

HOUSE SPONSORSHIP

Primavera, McCann, Melton, Ryden, Schafer, Singer, Tyler

SENATE SPONSORSHIP

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House Committees

Public Health Care & Human Services
Appropriations

Senate Committees

Health & Human Services
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE USE OF EPINEPHRINE AUTO-INJECTORS IN**
102 **EMERGENCY SITUATIONS IN SCHOOL SETTINGS, AND, IN**
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The governing authority of public and nonpublic schools may adopt a policy to authorize the school nurse or other designated school personnel to administer an epinephrine auto-injector to any student that the school nurse or designated school personnel in good faith believes is

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unamended
April 5, 2013

HOUSE
Amended 2nd Reading
April 2, 2013

experiencing anaphylaxis, in accordance with a standing protocol from a licensed physician, physician's assistant, or advance practice nurse with prescriptive authority, and regardless of whether the student has a prescription for an epinephrine auto-injector. Schools may acquire and maintain a stock supply of epinephrine auto-injectors. A governing authority of a school may enter into arrangements with manufacturers or third-party suppliers of epinephrine auto-injectors to obtain epinephrine auto-injectors at fair-market or reduced prices or for free.

The state board of education, with assistance from the department of public health and environment, is required to adopt rules on the management of students with life-threatening allergies, training of users of epinephrine auto-injectors, and on the reporting of incidences of anaphylaxis and the administration of epinephrine auto-injectors.

The bill requires a public school that obtains epinephrine auto-injectors to meet the rules on training, maintenance, and physician involvement requirements. The department of education shall develop and publish an annual report compiling, summarizing, and analyzing all incident reports submitted to the department.

The bill limits the liability of a public or nonpublic school and a good-faith user of an epinephrine auto-injector in emergency situations in school settings when the school has adopted a policy on the administration of epinephrine auto-injectors in accordance with a standing protocol. To qualify for the limited immunity protection, a nonpublic school must follow the state board of education's rules on training, maintenance, and physician-involvement requirements. The bill extends the limited immunity under current law available to a public school to a nonpublic school when a student self-administers an epinephrine auto-injector pursuant to an approved treatment plan.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 22-1-119.5, **amend**
3 (6) and (8); and **add** (5.5) as follows:

4 **22-1-119.5. Asthma, food allergy, and anaphylaxis health**
5 **management - self-administered medication - staff-administered**
6 **medication - rules - definitions.** (5.5) (a) AS USED IN THIS SUBSECTION
7 (5.5) AND IN SUBSECTION (6) OF THIS SECTION, UNLESS THE CONTEXT
8 OTHERWISE REQUIRES:

9 (I) "ADMINISTER" OR "ADMINISTRATION" MEANS TO GIVE A DOSE

1 OF MEDICINE TO A STUDENT WHO HAS ASTHMA OR A FOOD OR OTHER
2 ALLERGY OR WHO IS EXPERIENCING ANAPHYLAXIS, INCLUDING THE USE OF
3 AN EPINEPHRINE AUTO-INJECTOR, AN ASTHMA INHALER, OR ORAL
4 MEDICATION.

5 (II) "DESIGNATED SCHOOL PERSONNEL" MEANS:

6 (A) AN EMPLOYEE IN A SCHOOL WHO HAS BEEN TRAINED ON THE
7 ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS CONSISTENT WITH THE
8 RULES ON ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS AND TO
9 WHOM THE SCHOOL NURSE HAS DELEGATED THE NURSING TASK OF
10 ADMINISTERING EPINEPHRINE AUTO-INJECTORS TO STUDENTS; OR

11 (B) AN EMPLOYEE IN A SCHOOL WHO HAS BEEN TRAINED ON THE
12 ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS CONSISTENT WITH THE
13 RULES ON ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS AND TO
14 WHOM THE REGISTERED NURSE HAS DELEGATED THE NURSING TASK OF
15 ADMINISTERING EPINEPHRINE AUTO-INJECTORS TO STUDENTS OR HAS BEEN
16 TRAINED BY ANOTHER MEDICAL PROFESSIONAL LICENSED UNDER ARTICLE
17 36 OR ARTICLE 38 OF TITLE 12, C.R.S., AND TO WHOM THE LICENSEE HAS
18 DELEGATED THE ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS
19 UNDER THE AUTHORITY OF THAT PERSON'S LICENSE.

20 (III) "GOVERNING AUTHORITY OF A SCHOOL" MEANS A SCHOOL
21 DISTRICT BOARD OF EDUCATION OF A PUBLIC SCHOOL, THE STATE CHARTER
22 SCHOOL INSTITUTE FOR AN INSTITUTE CHARTER SCHOOL, OR THE
23 GOVERNING BOARD OF A NONPUBLIC SCHOOL.

24 (IV) "PRESCRIPTION" MEANS ANY ORDER ISSUED IN WRITING,
25 DATED AND SIGNED BY A PHYSICIAN LICENSED PURSUANT TO ARTICLE 36
26 OF TITLE 12, C.R.S., A PHYSICIAN ASSISTANT LICENSED IN ACCORDANCE
27 WITH SECTION 12-36-107.4, C.R.S., OR AN ADVANCED PRACTICE NURSE

1 WITH PRESCRIPTIVE AUTHORITY IN ACCORDANCE WITH SECTION
2 12-38-111.6, C.R.S.

3 (V) "SCHOOL" MEANS ANY PUBLIC OR NONPUBLIC SCHOOL.

4 (b) A GOVERNING AUTHORITY OF A SCHOOL MAY ADOPT AND
5 IMPLEMENT A POLICY WHEREBY SCHOOLS UNDER ITS JURISDICTION MAY
6 ACQUIRE AND MAINTAIN A STOCK SUPPLY OF EPINEPHRINE
7 AUTO-INJECTORS.

8 (c) A GOVERNING AUTHORITY OF A SCHOOL MAY ADOPT A POLICY
9 FOR SCHOOLS WITHIN ITS JURISDICTION TO AUTHORIZE THE SCHOOL NURSE
10 OR OTHER DESIGNATED SCHOOL PERSONNEL TO ADMINISTER AN
11 EPINEPHRINE AUTO-INJECTOR TO ANY STUDENT THAT THE SCHOOL NURSE
12 OR DESIGNATED SCHOOL PERSONNEL IN GOOD FAITH BELIEVES IS
13 EXPERIENCING ANAPHYLAXIS, IN ACCORDANCE WITH STANDING ORDERS
14 AND PROTOCOLS FROM A LICENSED PHYSICIAN, PHYSICIAN ASSISTANT, OR
15 ADVANCE PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY, REGARDLESS
16 OF WHETHER THE STUDENT HAS A PRESCRIPTION FOR AN EPINEPHRINE
17 AUTO-INJECTOR.

18 (d) A GOVERNING AUTHORITY OF A SCHOOL MAY ENTER INTO
19 ARRANGEMENTS WITH MANUFACTURERS OF EPINEPHRINE AUTO-INJECTORS
20 OR THIRD-PARTY SUPPLIERS OF EPINEPHRINE AUTO-INJECTORS TO OBTAIN
21 EPINEPHRINE AUTO-INJECTORS AT FAIR-MARKET OR REDUCED PRICES OR
22 FOR FREE.

23 (e) THE GOVERNING AUTHORITY OF A PUBLIC SCHOOL THAT
24 DECIDES TO MAINTAIN A SUPPLY OF EPINEPHRINE AUTO-INJECTORS AS
25 DESCRIBED IN THIS SUBSECTION (5.5) SHALL:

26 (I) IMPLEMENT A PLAN BASED ON THE RULES DEVELOPED
27 PURSUANT TO SUBSECTION (8) OF THIS SECTION FOR THE MANAGEMENT OF

1 STUDENTS WITH LIFE-THREATENING ALLERGIES ENROLLED IN SCHOOLS
2 UNDER ITS JURISDICTION; AND

3 (II) MAKE SUCH PLAN AVAILABLE ON SUCH GOVERNING
4 AUTHORITY'S WEB SITE OR THE WEB SITE OF EACH SCHOOL UNDER THE
5 GOVERNING AUTHORITY'S JURISDICTION, OR IF SUCH WEB SITES DO NOT
6 EXIST, MAKE SUCH PLAN AVAILABLE TO PARENTS AND OTHER INTERESTED
7 PERSONS THROUGH OTHER PRACTICAL MEANS AS DETERMINED BY SUCH
8 GOVERNING AUTHORITY.

9 (f) TO QUALIFY FOR THE PROTECTIONS IN SUBSECTION (6) OF THIS
10 SECTION, THE GOVERNING AUTHORITY OF A NONPUBLIC SCHOOL THAT
11 DECIDES TO MAINTAIN A SUPPLY OF EPINEPHRINE AUTO-INJECTORS AS
12 DESCRIBED IN THIS SUBSECTION (5.5) MUST IMPLEMENT A PLAN BASED ON
13 THE RULES ADOPTED BY THE STATE BOARD OF EDUCATION AS DESCRIBED
14 IN SUBSECTION (8) OF THIS SECTION.

15 (g) THE DEPARTMENT OF EDUCATION SHALL DEVELOP AND
16 PUBLISH AN ANNUAL REPORT COMPILING, SUMMARIZING, AND ANALYZING
17 ALL INCIDENT REPORTS SUBMITTED TO THE DEPARTMENT PURSUANT TO
18 PARAGRAPH (e) OF SUBSECTION (8) OF THIS SECTION.

19 (6) UNLESS THE DAMAGES WERE CAUSED BY WILLFUL OR WANTON
20 CONDUCT OR DISREGARD OF THE CRITERIA OF AN APPROVED TREATMENT
21 PLAN, if the provisions of this section are met, a school, school district,
22 school district director, or school or school district employee ~~or a~~
23 ~~volunteer~~ not otherwise provided for under section 13-21-108, C.R.S.,
24 shall not be liable in a suit for damages as a result of an act or omission
25 related to:

26 (a) A student's own use of the student's epinephrine auto-injector
27 or any other medication contained in an approved treatment plan; ~~unless~~

1 ~~the damages were caused by willful or wanton conduct or disregard of the~~
2 ~~criteria of the treatment plan.~~ OR

3 (b) THE GOOD-FAITH ADMINISTRATION OF AN EPINEPHRINE
4 AUTO-INJECTOR IN ACCORDANCE WITH A POLICY AND ~~STANDING~~
5 ~~ORDERS AND PROTOCOLS~~ ON THE ADMINISTRATION OF EPINEPHRINE
6 AUTO-INJECTORS AS DESCRIBED IN PARAGRAPH (c) OF SUBSECTION (5.5) OF
7 THIS SECTION AND PURSUANT TO A PLAN ADOPTED PURSUANT TO
8 PARAGRAPH (e) OR (f) OF SUBSECTION (5.5) OF THIS SECTION.

9 (8) The state board of education, with assistance from the
10 department of public health and environment, shall promulgate AND
11 REVISE, AS NECESSARY, rules for treatment plans for the
12 ~~self-administration of medications~~ MANAGEMENT OF STUDENTS WITH
13 LIFE-THREATENING ALLERGIES pursuant to this section. THE STATE BOARD
14 OF EDUCATION SHALL ADOPT RULES ON OR BEFORE DECEMBER 31, 2013,
15 TO INCLUDE, BUT NOT BE LIMITED TO:

16 (a) EDUCATION AND TRAINING FOR SCHOOL NURSES AND
17 DESIGNATED SCHOOL PERSONNEL ON THE MANAGEMENT OF STUDENTS
18 WITH LIFE-THREATENING ALLERGIES, INCLUDING TRAINING RELATED TO
19 THE ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR. IN DEVELOPING
20 THE RULES ON EDUCATION AND TRAINING, THE STATE BOARD SHALL
21 SOLICIT INPUT FROM AN ORGANIZATION THAT REPRESENTS SCHOOL
22 NURSES.

23 (b) PROCEDURES FOR RESPONDING TO LIFE-THREATENING
24 ALLERGIC REACTIONS;

25 (c) A PROCESS FOR THE DEVELOPMENT OF INDIVIDUALIZED HEALTH
26 CARE AND ALLERGY ACTION PLANS FOR EVERY STUDENT WITH A KNOWN
27 LIFE-THREATENING ALLERGY, INCLUDING THE SELF-ADMINISTRATION OF

1 MEDICATIONS PURSUANT TO SUBSECTION (2) OF THIS SECTION;

2 (d) PROTOCOLS TO PREVENT EXPOSURE TO ALLERGENS;

3 (e) REQUIREMENTS FOR EACH SCHOOL TO SUBMIT, ON A FORM
4 DEVELOPED BY THE DEPARTMENT OF EDUCATION, A REPORT OF EACH
5 INCIDENT AT THE SCHOOL OR A RELATED-SCHOOL EVENT INVOLVING A
6 SEVERE ALLERGIC REACTION OR THE ADMINISTRATION OF AN EPINEPHRINE
7 AUTO-INJECTOR OR BOTH;

8 (f) REQUIREMENTS FOR SCHOOL NURSES IN SCHOOLS THAT HAVE
9 ADOPTED A POLICY ALLOWING FOR THE ADMINISTRATION OF EPINEPHRINE
10 AUTO-INJECTORS PURSUANT TO SUBSECTION (5.5) OF THIS SECTION TO
11 REPORT TO THE DEPARTMENT WHETHER THE SCHOOL NURSE HAS TRAINED
12 AND DESIGNATED ANY SCHOOL PERSONNEL TO ADMINISTER EPINEPHRINE
13 AUTO-INJECTORS AND, IF SO, THE NUMBER OF EMPLOYEES IN THE SCHOOL
14 OR SCHOOL DISTRICT THAT HAVE BEEN TRAINED AND DESIGNATED TO
15 ADMINISTER EPINEPHRINE AUTO-INJECTORS.

16 (g) DETAILED STANDARDS FOR TRAINING PROGRAMS THAT MUST
17 BE COMPLETED BY SCHOOL NURSES AND DESIGNATED SCHOOL PERSONNEL
18 IN ORDER TO ADMINISTER AN EPINEPHRINE AUTO-INJECTOR IN
19 ACCORDANCE WITH SUBSECTION (5.5) OF THIS SECTION. TRAINING MAY BE
20 CONDUCTED ON-LINE AND, AT A MINIMUM, SHALL COVER:

21 (I) TECHNIQUES ON HOW TO RECOGNIZE SYMPTOMS OF SEVERE
22 ALLERGIC REACTIONS, INCLUDING ANAPHYLAXIS;

23 (II) STANDARDS AND PROCEDURES FOR THE STORAGE AND
24 ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR; AND

25 (III) EMERGENCY FOLLOW-UP PROCEDURES AFTER ADMINISTERING
26 AN EPINEPHRINE AUTO-INJECTOR.

27 **SECTION 2. In Colorado Revised Statutes, 12-36-117, add (1.7)**

1 as follows:

2 **12-36-117. Unprofessional conduct.** (1.7) A LICENSEE SHALL
3 NOT BE SUBJECT TO DISCIPLINARY ACTION BY THE BOARD FOR ISSUING
4 STANDING ORDERS AND PROTOCOLS REGARDING THE USE OF EPINEPHRINE
5 AUTO-INJECTORS IN A PUBLIC OR NONPUBLIC SCHOOL IN ACCORDANCE
6 WITH THE REQUIREMENTS OF SECTION 22-1-119.5, C.R.S., OR FOR THE
7 ACTIONS TAKEN BY A SCHOOL NURSE OR BY ANY DESIGNATED SCHOOL
8 PERSONNEL WHO ADMINISTER EPINEPHRINE AUTO-INJECTORS IN
9 ACCORDANCE WITH THE REQUIREMENTS OF SECTION 22-1-119.5, C.R.S.

10 **SECTION 3.** In Colorado Revised Statutes, 12-38-125, **add** (1)
11 (n) as follows:

12 **12-38-125. Exclusions.** (1) No provision of this article shall be
13 construed to prohibit:

14 (n) (I) THE ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS BY
15 A LICENSEE IN A PUBLIC SCHOOL OR NONPUBLIC SCHOOL PURSUANT TO A
16 POLICY ADOPTED IN ACCORDANCE WITH SECTION 22-1-119.5, C.R.S.;

17 (II) THE ISSUANCE BY AN ADVANCED PRACTICE NURSE WITH
18 PRESCRIPTIVE AUTHORITY OF STANDING ORDERS AND PROTOCOLS FOR THE
19 USE OF EPINEPHRINE AUTO-INJECTORS FOR EMERGENCY USE IN A PUBLIC
20 SCHOOL OR NONPUBLIC SCHOOL PURSUANT TO A POLICY ADOPTED IN
21 ACCORDANCE WITH SECTION 22-1-119.5, C.R.S.; OR

22 (III) THE TRAINING BY A LICENSEE OF AND THE DELEGATION TO
23 DESIGNATED SCHOOL PERSONNEL ON THE RECOGNITION OF THE SYMPTOMS
24 OF ANAPHYLACTIC SHOCK AND ON THE ADMINISTRATION OF EPINEPHRINE
25 AUTO-INJECTORS IN A PUBLIC SCHOOL OR NONPUBLIC SCHOOL PURSUANT
26 TO A POLICY ADOPTED IN ACCORDANCE WITH SECTION 22-1-119.5, C.R.S.

27 **SECTION 4.** In Colorado Revised Statutes, 12-42.5-102, **add**

1 (42) (b) (XIV) as follows:

2 **12-42.5-102. Definitions.** As used in this article, unless the
3 context otherwise requires or the term is otherwise defined in another part
4 of this article:

5 (42) (b) "Wholesale distribution" does not include:

6 (XIV) THE DISTRIBUTION, DONATION, OR SALE BY A
7 MANUFACTURER OR WHOLESALER OF A STOCK SUPPLY OF EPINEPHRINE
8 AUTO-INJECTORS TO PUBLIC SCHOOLS OR NONPUBLIC SCHOOLS FOR
9 EMERGENCY USE BY DESIGNATED SCHOOL PERSONNEL IN ACCORDANCE
10 WITH THE REQUIREMENTS OF SECTION 22-1-119.5, C.R.S.

11 **SECTION 5. Appropriation.** In addition to any other
12 appropriation, there is hereby appropriated, out of any moneys in the
13 general fund not otherwise appropriated, to the department of education,
14 for the fiscal year beginning July 1, 2013, the sum of \$8,035 and 0.1 FTE,
15 or so much thereof as may be necessary, for allocation to health and
16 nutrition programs for expenses related to the implementation of this act.

17 **SECTION 6. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.