

By Senators Bean and Hutson

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1 A bill to be entitled
2 An act relating to emergency allergy treatment in
3 schools; amending s. 381.88, F.S.; revising the term
4 "authorized entity"; amending ss. 1002.20 and 1002.42,
5 F.S.; authorizing a public school and a private
6 school, respectively, to enter into certain
7 arrangements with wholesale distributors or
8 manufacturers for epinephrine auto-injectors;
9 providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Paragraph (b) of subsection (2) of section
14 381.88, Florida Statutes, is amended to read:

15 381.88 Emergency allergy treatment.—

16 (2) As used in this section and s. 381.885, the term:

17 (b) "Authorized entity" means an entity or organization at
18 or in connection with which allergens capable of causing a
19 severe allergic reaction may be present. The term includes, but
20 is not limited to, restaurants, recreation camps, youth sports
21 leagues, theme parks and resorts, and sports arenas. However, a
22 school as described in s. 1002.20(3)(i) or s. 1002.42(17)(b) is
23 an authorized entity for the purposes of s. 381.885(4) and (5)
24 ~~subsection (5)~~ only.

25 Section 2. Paragraph (i) of subsection (3) of section
26 1002.20, Florida Statutes, is amended to read:

27 1002.20 K-12 student and parent rights.—Parents of public
28 school students must receive accurate and timely information
29 regarding their child's academic progress and must be informed
30 of ways they can help their child to succeed in school. K-12
31 students and their parents are afforded numerous statutory
32 rights including, but not limited to, the following:

6-01482-16

20161196__

33 (3) HEALTH ISSUES.—

34 (i) *Epinephrine use and supply*.—

35 1. A student who has experienced or is at risk for life-
36 threatening allergic reactions may carry an epinephrine auto-
37 injector and self-administer epinephrine by auto-injector while
38 in school, participating in school-sponsored activities, or in
39 transit to or from school or school-sponsored activities if the
40 school has been provided with parental and physician
41 authorization. The State Board of Education, in cooperation with
42 the Department of Health, shall adopt rules for such use of
43 epinephrine auto-injectors that shall include provisions to
44 protect the safety of all students from the misuse or abuse of
45 auto-injectors. A school district, county health department,
46 public-private partner, and their employees and volunteers shall
47 be indemnified by the parent of a student authorized to carry an
48 epinephrine auto-injector for any and all liability with respect
49 to the student's use of an epinephrine auto-injector pursuant to
50 this paragraph.

51 2. A public school may purchase a supply of epinephrine
52 auto-injectors from a wholesale distributor as defined in s.
53 499.003 or may enter into an arrangement with a wholesale
54 distributor or manufacturer as defined in s. 499.003 for the
55 epinephrine auto-injectors at fair-market, free, or reduced
56 prices for use in the event a student has an anaphylactic
57 reaction. The epinephrine auto-injectors must be maintained and
58 maintain in a locked, secure location on the public school's ~~its~~
59 ~~premises a supply of epinephrine auto-injectors for use if a~~
60 ~~student is having an anaphylactic reaction.~~ The participating
61 school district shall adopt a protocol developed by a licensed

6-01482-16

20161196__

62 physician for the administration by school personnel who are
63 trained to recognize an anaphylactic reaction and to administer
64 an epinephrine auto-injection. The supply of epinephrine auto-
65 injectors may be provided to and used by a student authorized to
66 self-administer epinephrine by auto-injector under subparagraph
67 1. or trained school personnel.

68 3. The school district and its employees, and agents, and
69 ~~including~~ the physician who provides the standing protocol for
70 school epinephrine auto-injectors, ~~are~~ are not liable for any injury
71 arising from the use of an epinephrine auto-injector
72 administered by trained school personnel who follow the adopted
73 protocol and whose professional opinion is that the student is
74 having an anaphylactic reaction:

75 a. Unless the trained school personnel's action is willful
76 and wanton;

77 b. Notwithstanding that the parents or guardians of the
78 student to whom the epinephrine is administered have not been
79 provided notice or have not signed a statement acknowledging
80 that the school district is not liable; and

81 c. Regardless of whether authorization has been given by
82 the student's parents or guardians or by the student's
83 physician, physician's assistant, or advanced registered nurse
84 practitioner.

85 Section 3. Subsection (17) of section 1002.42, Florida
86 Statutes, is amended to read:

87 1002.42 Private schools.—

88 (17) EPINEPHRINE SUPPLY.—

89 (a) A private school may purchase a supply of epinephrine
90 auto-injectors from a wholesale distributor as defined in s.

6-01482-16

20161196__

91 499.003 or may enter into an arrangement with a wholesale
92 distributor or manufacturer as defined in s. 499.003 for the
93 epinephrine auto-injectors at fair-market, free, or reduced
94 prices for use in the event a student has an anaphylactic
95 reaction. The epinephrine auto-injectors must be maintained ~~and~~
96 maintain in a locked, secure location on the private school's
97 ~~its premises a supply of epinephrine auto-injectors for use if a~~
98 ~~student is having an anaphylactic reaction.~~ The participating
99 private school shall adopt a protocol developed by a licensed
100 physician for the administration by private school personnel who
101 are trained to recognize an anaphylactic reaction and to
102 administer an epinephrine auto-injection. The supply of
103 epinephrine auto-injectors may be provided to and used by a
104 student authorized to self-administer epinephrine by auto-
105 injector under s. 1002.20(3)(i) or trained school personnel.

106 (b) The private school and its employees, ~~and~~ agents, and
107 ~~including~~ the physician who provides the standing protocol for
108 school epinephrine auto-injectors, ~~7~~ are not liable for any injury
109 arising from the use of an epinephrine auto-injector
110 administered by trained school personnel who follow the adopted
111 protocol and whose professional opinion is that the student is
112 having an anaphylactic reaction:

113 1. Unless the trained school personnel's action is willful
114 and wanton;

115 2. Notwithstanding that the parents or guardians of the
116 student to whom the epinephrine is administered have not been
117 provided notice or have not signed a statement acknowledging
118 that the school district is not liable; and

119 3. Regardless of whether authorization has been given by

6-01482-16

20161196__

120 the student's parents or guardians or by the student's
121 physician, physician's assistant, or advanced registered nurse
122 practitioner.

123 Section 4. This act shall take effect July 1, 2016.