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CS/HB 1305

2016 Legislature

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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; revising  
9 the storage requirements for epinephrine auto-  
10 injectors; providing an effective date.

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

13  
14 Section 1. Paragraph (b) of subsection (2) of section  
15 381.88, Florida Statutes, is amended to read:

16 381.88 Emergency allergy treatment.—

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

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

26 Section 2. Paragraph (i) of subsection (3) of section

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27 | 1002.20, Florida Statutes, is amended to read:

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

34 |       (3) HEALTH ISSUES.—

35 |       (i) Epinephrine use and supply.—

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

52 |       2. A public school may purchase a supply of epinephrine

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53 auto-injectors from a wholesale distributor as defined in s.  
 54 499.003 or may enter into an arrangement with a wholesale  
 55 distributor or manufacturer as defined in s. 499.003 for the  
 56 epinephrine auto-injectors at fair-market, free, or reduced  
 57 prices for use in the event a student has an anaphylactic  
 58 reaction. The epinephrine auto-injectors must be maintained and  
 59 ~~maintain~~ in a ~~locked,~~ secure location on the public school's its  
 60 premises ~~a supply of epinephrine auto-injectors for use if a~~  
 61 ~~student is having an anaphylactic reaction.~~ The participating  
 62 school district shall adopt a protocol developed by a licensed  
 63 physician for the administration by school personnel who are  
 64 trained to recognize an anaphylactic reaction and to administer  
 65 an epinephrine auto-injection. The supply of epinephrine auto-  
 66 injectors may be provided to and used by a student authorized to  
 67 self-administer epinephrine by auto-injector under subparagraph  
 68 1. or trained school personnel.

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

- 76 a. Unless the trained school personnel's action is willful
- 77 and wanton;
- 78 b. Notwithstanding that the parents or guardians of the

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79 student to whom the epinephrine is administered have not been  
 80 provided notice or have not signed a statement acknowledging  
 81 that the school district is not liable; and

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

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

88 1002.42 Private schools.—

89 (17) EPINEPHRINE SUPPLY.—

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

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105 student authorized to self-administer epinephrine by auto-  
106 injector under s. 1002.20(3)(i) or trained school personnel.

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

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

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

120 3. Regardless of whether authorization has been given by  
121 the student's parents or guardians or by the student's  
122 physician, physician's assistant, or advanced registered nurse  
123 practitioner.

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