

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 2373**

BY DELEGATE STATLER

[Introduced February 13, 2017; Referred to the  
committee on Education then the Judiciary.]



1 A BILL to amend and reenact §18-5-22c of the Code of West Virginia, 1931, as amended, relating  
2 to authorizing school transportation personnel trained in administration of epinephrine  
3 auto-injectors and designated and authorized by the school or county board to administer  
4 auto-injectors to a student or school personnel experiencing an anaphylactic reaction;  
5 making school transportation personnel immune from liability for administration of an  
6 epinephrine auto-injector except in cases of gross negligence or willful misconduct; and  
7 requiring the State Board of Education to promulgate rules necessary to effectuate the  
8 provisions of this section.

*Be it enacted by the Legislature of West Virginia:*

1 That §18-5-22c of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-22c. Providing for the maintenance and use of epinephrine auto-injectors;  
administration of injections; notice; indemnity from liability; rules.**

1 (a) A public, private, parochial or denominational school located within this state may  
2 possess and maintain at the school a supply of epinephrine auto-injectors for use in emergency  
3 medical care or treatment for an anaphylactic reaction. A prior diagnosis for a student or school  
4 personnel requiring the use of epinephrine auto-injectors is not necessary to permit the school to  
5 stock epinephrine auto-injectors. Epinephrine auto-injectors shall be maintained by the school in  
6 a secure location which is only accessible by medical personnel and authorized nonmedical  
7 personnel and not by students.

8 (b) An allopathic physician licensed to practice pursuant to the provisions of article three,  
9 chapter thirty of this code or an osteopathic physician licensed to practice pursuant to the  
10 provisions of article fourteen, chapter thirty of this code may prescribe within the course of his or  
11 her professional practice standing orders and protocols for use when necessary by a school which  
12 wishes to maintain epinephrine auto-injector pursuant to the provisions of this section.

13 (c) A school nurse, as set forth in section twenty-two of this article, is authorized to  
14 administer an epinephrine auto-injector to a student or school personnel during regular school  
15 hours or at a school function when the school nurse medically believes the individual is  
16 experiencing an anaphylactic reaction. A school nurse may use the school supply of epinephrine  
17 auto-injectors for a student or school personnel authorized to self-administer that meet the  
18 requirements of a prescription on file with the school.

19 (d) Nonmedical school personnel who have been trained in the administration of an  
20 epinephrine auto-injector and who have been designated and authorized by the school or county  
21 board to administer the epinephrine auto-injector are authorized to administer an epinephrine  
22 auto-injector to a student or school personnel during regular school hours or at a school function  
23 when the authorized and designated nonmedical school personnel reasonably believes, based  
24 upon their training, that the individual is experiencing an anaphylactic reaction. Nonmedical school  
25 personnel may use the school supply of epinephrine auto-injectors for a student or school  
26 personnel authorized to self-administer that meet the requirements of a prescription on file with  
27 the school.

28 (e) School transportation personnel, including bus drivers, who have been trained in the  
29 administration of an epinephrine auto-injector and who have been designated and authorized by  
30 the school or county board to administer an epinephrine auto-injector are authorized to administer  
31 an epinephrine auto-injector to a student or school personnel during transportation to or from a  
32 school function when the school transportation personnel reasonably believes, based upon their  
33 training, that the individual is experiencing an anaphylactic reaction. School transportation  
34 personnel may use the individual's personal supply of epinephrine auto-injectors or the school  
35 supply of epinephrine auto-injectors for a student or school personnel authorized to self-  
36 administer that meet the requirements of a prescription on file with the school: *Provided, That*  
37 school transportation personnel shall defer to an individual possessing a higher degree of medical  
38 training or the parent of the child experiencing an anaphylactic reaction if either are present at the

39 time of the reaction; *Provided, however,* That that school transportation personnel trained and  
40 authorized to administer epinephrine auto-injectors shall not be subject to the terms of chapter  
41 eighteen, article five, subsection twenty-two.

42       ~~(e)~~ (f) Prior notice to the parents of a student of the administration of the epinephrine auto-  
43 injector is not required. Immediately following the administration of the epinephrine auto-injector,  
44 the school shall provide notice to the parent of a student who received an auto-injection.

45       ~~(f)~~ (g) A school nurse, a trained school transportation personnel, or a trained and  
46 authorized nonmedical school personnel who ~~administer~~ administers an epinephrine auto-  
47 injection to a student or to school personnel as provided in this section is immune from liability for  
48 any civil action arising out of an act or omission resulting from the administration of the  
49 epinephrine auto-injection unless the act or omission was the result of the school nurse, school  
50 transportation personnel, or trained and authorized nonmedical school personnel's gross  
51 negligence or willful misconduct.

52       ~~(g)~~ (h) For the purposes of this section, all county boards of education may participate in  
53 free or discounted drug programs from pharmaceutical manufacturers to provide epinephrine  
54 auto-injectors to schools in their counties who choose to stock auto-injectors.

55       ~~(h)~~ (i) All county boards of education are required to collect and compile aggregate data  
56 on incidents of anaphylactic reactions resulting in the administration of school maintained  
57 epinephrine auto-injectors in their county during a school year and forward the data to State  
58 Superintendent of Schools. The State Superintendent of Schools shall prepare an annual report  
59 to be presented to the Joint Committee on Government and Finance as set forth in article three,  
60 chapter four of this code, by December 31 of each year.

61       ~~(i)~~ (j) The State Board of Education, as defined in article two of this chapter, shall consult  
62 with the state Health Officer, as defined in section four, article three, chapter thirty of this code,  
63 and promulgate rules necessary to effectuate the provisions of this section in accordance with the

64 provisions of article three-b, chapter twenty-nine-a of this code. The rules shall provide, at a  
65 minimum, for:

66 (1) The criteria for selection and minimum requirements of nonmedical school personnel  
67 and school transportation personnel who may administer epinephrine auto-injectors following the  
68 necessary training;

69 (2) The training requirements necessary for nonmedical school personnel and school  
70 transportation personnel to be authorized to administer an epinephrine auto-injection;

71 (3) Training on anaphylaxis and allergy awareness for food service workers in the school  
72 system, if easily available locally;

73 (4) Storage requirements for maintaining the epinephrine auto-injectors within the schools;

74 (5) Comprehensive notice requirements to the parents of a student who was administered  
75 a school maintained epinephrine auto-injection including who administered the injection, the  
76 rationale for administering the injection, the approximate time of the injection and any other  
77 necessary elements to make the student's parents fully aware of the circumstances surrounding  
78 the administration of the injection;

79 (6) Any and all necessary documentation to be kept and maintained regarding receipt,  
80 inventory, storage and usage of all epinephrine auto-injectors;

81 (7) Detailed reporting requirements for county boards of education on incidents of use of  
82 school maintained epinephrine auto-injectors during a school year; and

83 (8) Any other requirements necessary to fully implement this section.

NOTE: The purpose of this bill is to authorize school transportation personnel trained in administration of epinephrine auto-injectors to administer auto-injectors to students or school personnel experiencing an anaphylactic reaction and making school transportation personnel immune from liability for use of an epinephrine auto-injector except in cases of gross negligence or willful misconduct.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.