

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

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 bus drivers trained in administration of epinephrine auto-injectors to
 3 administer auto-injectors to a student or school personnel experiencing an anaphylactic
 4 reaction and making school bus drivers immune from liability for administration of an
 5 epinephrine auto-injector except in cases of gross negligence or willful misconduct.

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 to
21 administer the epinephrine auto-injector are authorized to administer an epinephrine auto-injector
22 to a student or school personnel during regular school hours or at a school function when the
23 authorized and designated nonmedical school personnel reasonably believes, based upon their
24 training, that the individual is experiencing an anaphylactic reaction. Nonmedical school personnel
25 may use the school supply of epinephrine auto-injectors for a student or school personnel
26 authorized to self-administer that meet the requirements of a prescription on file with the school.

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

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

39 ~~(f)~~ (g) A school nurse, a trained bus driver, or a trained and authorized nonmedical school
40 personnel who ~~administer~~ administers an epinephrine auto-injection to a student or to school
41 personnel as provided in this section is immune from liability for any civil action arising out of an

42 act or omission resulting from the administration of the epinephrine auto-injection unless the act
43 or omission was the result of the school nurse, bus driver, or trained and authorized nonmedical
44 school personnel's gross negligence or willful misconduct.

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

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

54 ~~(i)~~ (j) The State Board of Education, as defined in article two of this chapter, shall consult
55 with the state Health Officer, as defined in section four, article three, chapter thirty of this code,
56 and promulgate rules necessary to effectuate the provisions of this section in accordance with the
57 provisions of article three-b, chapter twenty-nine-a of this code. The rules shall provide, at a
58 minimum, for:

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

61 (2) The training requirements necessary for nonmedical school personnel to be authorized
62 to administer an epinephrine auto-injection;

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

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

66 (5) Comprehensive notice requirements to the parents of a student who was administered
67 a school maintained epinephrine auto-injection including who administered the injection, the

68 rational for administering the injection, the approximate time of the injection and any other
69 necessary elements to make the student's parents fully aware of the circumstances surrounding
70 the administration of the injection;

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

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

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

NOTE: The purpose of this bill is to authorize school bus drivers trained in administration of epinephrine auto-injectors to administer auto-injectors to students or school personnel experiencing an anaphylactic reaction and making school bus drivers 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.