

**Senate Bill No. 340**

(By Senators Stollings, Kessler (Mr. President), Jenkins, Unger,  
Laird, Prezioso, Palumbo, Plymale, Beach, M. Hall, Nohe,  
Fitzsimmons, Miller, Tucker and McCabe)

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[Introduced February 21, 2013; referred to the Committee on  
Health and Human Resources; and then to the Committee on  
Education.]

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A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new section, designated §18-5-22c, relating  
to allowing schools to voluntarily maintain and use  
epinephrine auto-injectors; providing for the administration  
of an auto-injector by a school nurse or other trained and  
authorized nonmedical school personnel for emergency care or  
treatment of anaphylactic reactions; allowing the issuance of  
standing orders and protocols by physicians to schools to  
obtain epinephrine auto-injectors; setting forth notice  
requirements; allowing students who self inject to use the  
school supply of epinephrine auto-injectors; setting forth  
immunity from liability for school nurses and trained and

1 authorized nonmedical school personnel; allowing county school  
2 boards to participate in free or discounted manufacturer -  
3 sponsored pharmaceutical programs to obtain epinephrine auto-  
4 injectors; providing for data collection and reporting  
5 requirements; and setting forth rule-making authority to  
6 effectuate the provisions of the section.

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

8 That the Code of West Virginia, 1931, as amended, be amended  
9 by adding thereto a new section, designated §18-5-22c, to read as  
10 follows:

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

12 **§18-5-22c. Providing for the maintenance and use of epinephrine**  
13 **auto-injectors; administration of injections;**  
14 **notice; indemnity from liability; rules.**

15 (a) A public, private, parochial or denominational school  
16 located within this state may possess and maintain at the school a  
17 supply of epinephrine auto-injectors for use in emergency medical  
18 care or treatment for an anaphylactic reaction. A prior diagnosis  
19 for a student or school personnel requiring the use of epinephrine  
20 auto-injectors is not necessary to permit the school to stock  
21 epinephrine auto-injectors. Epinephrine auto-injectors shall be  
22 maintained by the school in a secure location which is only  
23 accessible by medical personnel and authorized nonmedical personnel

1 and not by students.

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

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

19       (d) Nonmedical school personnel who have been trained in the  
20 administration of an epinephrine auto-injector and who have been  
21 designated and authorized by the school to administer the  
22 epinephrine auto-injector are authorized to administer an  
23 epinephrine auto-injector to a student or school personnel during

1 regular school hours or at a school function when the authorized  
2 and designated nonmedical school personnel reasonably believes,  
3 based upon their training, that the individual is experiencing an  
4 anaphylactic reaction. Nonmedical school personnel may use the  
5 school supply of epinephrine auto-injectors for a student or school  
6 personnel authorized to self-administer that meet the requirements  
7 of a prescription on file with the school.

8 (e) Prior notice to the parents of a student of the  
9 administration of the epinephrine auto-injector is not required.  
10 Immediately following the administration of the epinephrine auto-  
11 injector, the school shall provide notice to the parent of a  
12 student who received an auto-injection.

13 (f) A school nurse or trained and authorized nonmedical school  
14 personnel who administer an epinephrine auto-injection to a student  
15 or to school personnel as provided in this section is immune from  
16 liability for any civil action arising out of an act or omission  
17 resulting from the administration of the epinephrine auto-injection  
18 unless the act or omission was the result of the school nurse or  
19 trained and authorized nonmedical school personnel's gross  
20 negligence or willful misconduct.

21 (g) For the purposes of this section, all county boards of  
22 education may participate in free or discounted drug programs from  
23 pharmaceutical manufacturers to provide epinephrine auto-injectors

1 to schools in their counties who choose to stock auto-injectors.

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

11       (i) The State Board of Education, as defined in article two  
12 of this chapter, shall consult with the state Health Officer, as  
13 defined in section four, article three, chapter thirty of this  
14 code, and promulgate rules necessary to effectuate the provisions  
15 of this section in accordance with the provisions of article three-  
16 b, chapter twenty-nine-a of this code. The rules shall provide, at  
17 a minimum, for:

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

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

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

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

5           (5) Comprehensive notice requirements to the parents of a  
6 student who was administered a school maintained epinephrine auto-  
7 injection including who administered the injection, the rationale  
8 for administering the injection, the approximate time of the  
9 injection and any other necessary elements to make the students'  
10 parents fully aware of the circumstances surrounding the  
11 administration of the injection;

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

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

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

NOTE: The purpose of this bill is to allow epinephrine auto-  
injectors to be maintained in school for emergency treatment  
administration during anaphylactic reactions.

This section is new; therefore, strike-throughs and underscoring have been omitted.