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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 688

02/18/2013 Authored by Winkler, Schoen, Hansen, Wills, Schomacker and others
The bill was read for the first time and referred to the Committee on Education Policy
03/06/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Health and Human Services Policy
03/13/2013 Adoption of Report: Pass as Amended and Read Second Time

1.1 A bill for an act
1.2 relating to education; allowing schools to maintain a supply of epinephrine
1.3 auto-injectors; providing immunity from liability; amending Minnesota Statutes
1.4 2012, sections 121A.22, subdivision 2; 121A.2205; 604A.31, by adding a
1.5 subdivision; proposing coding for new law in Minnesota Statutes, chapter 121A.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2012, section 121A.22, subdivision 2, is amended to read:

1.8 Subd. 2. Exclusions. In addition, this section does not apply to drugs or medicine
1.9 that are:

- 1.10 (1) purchased without a prescription;
1.11 (2) used by a pupil who is 18 years old or older;
1.12 (3) used in connection with services for which a minor may give effective consent,
1.13 including section 144.343, subdivision 1, and any other law;

1.14 (4) used in situations in which, in the judgment of the school personnel who are
1.15 present or available, the risk to the pupil's life or health is of such a nature that drugs or
1.16 medicine should be given without delay;

1.17 (5) used off the school grounds;

1.18 (6) used in connection with athletics or extra curricular activities;

1.19 (7) used in connection with activities that occur before or after the regular school day;

1.20 (8) provided or administered by a public health agency to prevent or control an
1.21 illness or a disease outbreak as provided for in sections 144.05 and 144.12;

1.22 (9) prescription asthma or reactive airway disease medications self-administered by
1.23 a pupil with an asthma inhaler if the district has received a written authorization from the
1.24 pupil's parent permitting the pupil to self-administer the medication, the inhaler is properly
1.25 labeled for that student, and the parent has not requested school personnel to administer

2.1 the medication to the pupil. The parent must submit written authorization for the pupil to  
 2.2 self-administer the medication each school year; or

2.3 (10) ~~prescription nonsyringe injectors of epinephrine~~ auto-injectors, consistent with  
 2.4 section 121A.2205, if the parent and prescribing medical professional annually inform the  
 2.5 pupil's school in writing that (i) the pupil may possess the epinephrine or (ii) the pupil is  
 2.6 unable to possess the epinephrine and requires immediate access to ~~nonsyringe injectors~~  
 2.7 ~~of epinephrine~~ auto-injectors that the parent provides properly labeled to the school for  
 2.8 the pupil as needed, or consistent with section 121A.2207.

2.9 Sec. 2. Minnesota Statutes 2012, section 121A.2205, is amended to read:

2.10 **121A.2205 POSSESSION AND USE OF NONSYRINGE INJECTORS OF**  
 2.11 **EPINEPHRINE AUTO-INJECTORS; MODEL POLICY.**

2.12 Subdivision 1. Definitions. As used in this section:

2.13 (1) "administer" means the direct application of an epinephrine auto-injector to  
 2.14 the body of an individual;

2.15 (2) "epinephrine auto-injector" means a device that automatically injects a  
 2.16 premeasured dose of epinephrine;

2.17 (3) "school" means a public school under section 120A.22, subdivision 4, or a  
 2.18 nonpublic school, excluding a home school, under section 120A.22, subdivision 4, that  
 2.19 is subject to the federal Americans with Disabilities Act.

2.20 Subd. 2. Plan for use of epinephrine auto-injectors. (a) At the start of each school  
 2.21 year or at the time a student enrolls in school, whichever is first, a student's parent, school  
 2.22 staff, including those responsible for student health care, and the prescribing medical  
 2.23 professional must develop and implement an individualized written health plan for a  
 2.24 student who is prescribed ~~nonsyringe injectors of epinephrine~~ auto-injectors that enables  
 2.25 the student to:

2.26 (1) possess ~~nonsyringe injectors of epinephrine~~ auto-injectors; or

2.27 (2) if the parent and prescribing medical professional determine the student is unable  
 2.28 to possess the epinephrine, have immediate access to ~~nonsyringe injectors of epinephrine~~  
 2.29 auto-injectors in close proximity to the student at all times during the instructional day.

2.30 The plan must designate the school staff responsible for implementing the student's  
 2.31 health plan, including recognizing anaphylaxis and administering ~~nonsyringe injectors of~~  
 2.32 epinephrine auto-injectors when required, consistent with section 121A.22, subdivision 2,  
 2.33 clause (10). This health plan may be included in a student's 504 plan.

2.34 (b) ~~A school under this section is a public school under section 120A.22, subdivision~~  
 2.35 ~~4, or a nonpublic school, excluding a home school, under section 120A.22, subdivision 4,~~

3.1 ~~that is subject to the federal Americans with Disabilities Act.~~ Other nonpublic schools are  
3.2 encouraged to develop and implement an individualized written health plan for students  
3.3 requiring ~~nonsyringe injectors of~~ epinephrine auto-injectors, consistent with this section  
3.4 and section 121A.22, subdivision 2, clause (10).

3.5 (c) A school district and its agents and employees are immune from liability for any  
3.6 act or failure to act, made in good faith, in implementing this section.

3.7 (d) The education commissioner may develop and transmit to interested schools a  
3.8 model policy and individualized health plan form consistent with this section and federal  
3.9 504 plan requirements. The policy and form may:

3.10 (1) assess a student's ability to safely possess ~~nonsyringe injectors of~~ epinephrine  
3.11 auto-injectors;

3.12 (2) identify staff training needs related to recognizing anaphylaxis and administering  
3.13 epinephrine when needed;

3.14 (3) accommodate a student's need to possess or have immediate access to ~~nonsyringe~~  
3.15 ~~injectors of~~ epinephrine auto-injectors in close proximity to the student at all times during  
3.16 the instructional day; and

3.17 (4) ensure that the student's parent provides properly labeled ~~nonsyringe injectors of~~  
3.18 epinephrine auto-injectors to the school for the student as needed.

3.19 (e) Additional ~~nonsyringe injectors of~~ epinephrine auto-injectors may be available in  
3.20 school first aid kits.

3.21 (f) The school board of the school district must define instructional day for the  
3.22 purposes of this section.

3.23 **Sec. 3. [121A.2207] LIFE-THREATENING ALLERGIES IN SCHOOLS;**  
3.24 **GUIDELINES; STOCK SUPPLY OF EPINEPHRINE AUTO-INJECTORS;**  
3.25 **EMERGENCY ADMINISTRATION.**

3.26 Subdivision 1. Districts and schools permitted to maintain supply. (a)  
3.27 Notwithstanding section 151.37, districts and schools may obtain and possess epinephrine  
3.28 auto-injectors to be maintained and administered according to this section. A district or  
3.29 school may maintain a stock supply of epinephrine auto-injectors.

3.30 (b) For purposes of this section, "district" means a district as defined under section  
3.31 121A.41, subdivision 3, or a school site or facility within the district, and "school" means  
3.32 a charter school as defined under section 124D.10.

3.33 Subd. 2. Use of supply. (a) A district or school may authorize school nurses and  
3.34 other designated school personnel trained under this section to administer an epinephrine  
3.35 auto-injector to any student or other individual based on guidelines under subdivision 4,

4.1 regardless of whether the student or other individual has a prescription for an epinephrine  
4.2 auto-injector if:

4.3 (1) the school nurse or designated person believes in good faith that an individual  
4.4 is experiencing anaphylaxis; and

4.5 (2) the person experiencing anaphylaxis is on school premises or off school premises  
4.6 at a school-sponsored event.

4.7 (b) The administration of an epinephrine auto-injector in accordance with this  
4.8 section is not the practice of medicine.

4.9 Subd. 3. **Arrangements with manufacturers.** A district or school may enter into  
4.10 arrangements with manufacturers of epinephrine auto-injectors to obtain epinephrine  
4.11 auto-injectors at fair-market, free, or reduced prices. A third party, other than a  
4.12 manufacturer or supplier, may pay for a school's supply of epinephrine auto-injectors.

4.13 Subd. 4. **District and school policies required for use of epinephrine**  
4.14 **auto-injector.** A district or school permitting administration of epinephrine auto-injectors  
4.15 pursuant to subdivision 2 shall develop guidelines in a manner consistent with section  
4.16 121A.22, subdivision 4, and plan for implementation of the guidelines, which shall  
4.17 include: (1) annual education and training for designated school personnel on the  
4.18 management of students with life-threatening allergies, including training related to  
4.19 the administration of an epinephrine auto-injector; (2) procedures for identification of  
4.20 anaphylaxis and responding to life-threatening allergic reactions; and (3) a plan to ensure  
4.21 that epinephrine auto-injectors maintained at the school are not expired. In developing the  
4.22 guidelines, the district or school must consider applicable model rules and include input  
4.23 from interested community stakeholders. The guidelines must include a requirement to call  
4.24 emergency medical services and inform the individual's parent, guardian, or emergency  
4.25 contact when an epinephrine auto-injector is administered. Each district and school shall  
4.26 make the guidelines and plan available on its Web site, or if such Web sites do not exist,  
4.27 make the plan publicly available through other practicable means as determined by the  
4.28 district or school. Upon request, a printed copy of the guidelines and plan must be made  
4.29 available at no charge. Each district and school shall maintain a log of each incident at a  
4.30 school or related school event involving the administration of an epinephrine auto-injector.

4.31 Subd. 5. **Immunity from liability.** A district or school and its employees and  
4.32 agents, including a physician, advanced practice registered nurse, or physician assistant  
4.33 providing a prescription or standing protocol for school epinephrine auto-injectors, is  
4.34 immune from liability for any act or failure to act, made in good faith, in implementing  
4.35 this section. The immunity from liability provided under this subdivision is in addition  
4.36 to and not in lieu of that provided under section 604A.01.

5.1       Sec. 4. Minnesota Statutes 2012, section 604A.31, is amended by adding a subdivision  
5.2 to read:

5.3       Subd. 5. **Administration of epinephrine auto-injectors.** Districts and schools and  
5.4 other persons involved in the development of protocols, providing prescriptions, and the  
5.5 administration of epinephrine auto-injectors are immune from liability as provided in  
5.6 section 121A.2207, subdivision 5.