

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1377 Session of
2007

INTRODUCED BY M. SMITH, MAHER, BRENNAN, COHEN, DePASQUALE,
EVERETT, GEIST, GIBBONS, GRELL, GRUCELA, HARPER, HENNESSEY,
HESS, HORNAMAN, JAMES, JOSEPHS, M. KELLER, KULA, MANN,
PALLONE, RAPP, READSHAW, SIPTROTH, SOLOBAY, R. STEVENSON,
WAGNER, J. WHITE, CALTAGIRONE, MYERS AND COSTA, MAY 29, 2007

REFERRED TO COMMITTEE ON EDUCATION, MAY 29, 2007

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," further providing for possession and
6 use of asthma inhalers.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 1414.1 of the act of March 10, 1949
10 (P.L.30, No.14), known as the Public School Code of 1949, added
11 November 30, 2004 (P.L.1471, No.187), is amended to read:

12 Section 1414.1. Possession and Use of [Asthma Inhalers]
13 Allergy Medicines by School-age Children.--(a) Each school
14 entity shall develop a written policy to allow for the
15 possession and self-administration by children of school age of
16 an asthma inhaler, epinephrine auto-injector and the prescribed
17 medication to be administered thereby in a school setting. A
18 school setting shall include, but not be limited to, the pupil's

1 school, school-sponsored transportation or any activity, event
2 or program sponsored by or in which the pupil's school is
3 participating.

4 (b) The policy under this section shall require a child of
5 school age that desires to possess and self-administer an asthma
6 inhaler or epinephrine auto-injector in a school setting to
7 demonstrate the capability for self-administration and for
8 responsible behavior in the use thereof and to notify the school
9 nurse immediately following each use of an asthma inhaler or
10 epinephrine auto-injector. The school entity shall develop a
11 system whereby the child may verify to the school nurse that the
12 child is capable of self-administration and has permission for
13 carrying and taking the medication through the use of the asthma
14 inhaler or epinephrine auto-injector. The school entity shall
15 also restrict the availability of the asthma inhaler,
16 epinephrine auto-injector and the prescribed medication
17 contained therein from other children of school age, with
18 immediate confiscation of [both] the asthma inhaler, epinephrine
19 auto-injector and the medication and loss of privileges if the
20 school policies are abused or ignored.

21 (c) The policy under this section may include the following:

22 (1) The requirement of a written statement from the
23 physician, certified registered nurse practitioner or physician
24 assistant that provides the name of the drug, the dose, the
25 times when the medication is to be taken and the diagnosis or
26 reason the medicine is needed unless the reason should remain
27 confidential. The physician, certified registered nurse
28 practitioner or physician assistant shall indicate the potential
29 of any serious reaction that may occur to the medication, as
30 well as any necessary emergency response. The physician,

1 certified registered nurse practitioner or physician assistant
2 shall state whether the child is qualified and able to self-
3 administer the medication.

4 (2) The requirement of a written request from the parent or
5 guardian that the school entity comply with the order of the
6 physician, certified registered nurse practitioner or physician
7 assistant. The parent's note shall include a statement relieving
8 the school entity or any school employe of any responsibility
9 for the benefits or consequences of the prescribed medication
10 when it is parent-authorized and acknowledging that the school
11 entity bears no responsibility for ensuring that the medication
12 is taken.

13 (3) The ability of the school entity to reserve the right to
14 require a statement from the physician, certified registered
15 nurse practitioner or physician assistant for the continued use
16 of any medication beyond a specified time period. The school
17 entity may also require updated prescription and parental
18 approval on an annual basis from the pupil.

19 (c.1) A school district, nonpublic school, member of a
20 school board, director or officer of a nonpublic school or
21 employe of a school district or nonpublic school is not liable
22 for damages in a civil action for injury, death or loss to
23 person or property allegedly arising from a pupil being
24 prohibited by an employe of the school or school district from
25 using an inhaler or epinephrine auto-injector because of the
26 employe's reasonable belief formed after a reasonable and
27 ordinary inquiry that the conditions prescribed in subsection
28 (c) had not been satisfied. A school district, nonpublic school,
29 member of a school board, director or officer of a nonpublic
30 school, or employe of a school district or nonpublic school is

1 not liable for damages in a civil action for injury, death or
2 loss to person or property allegedly arising from a pupil being
3 permitted by an employe of the school or school district to use
4 an inhaler or epinephrine auto-injector because of the employe's
5 reasonable belief formed after a reasonable and ordinary inquiry
6 that the conditions prescribed in subsection (c) had been
7 satisfied. This subsection does not eliminate, limit or reduce
8 any other immunity or defense that a school district, member of
9 a school board, director or employe of a school district may
10 have under the law of this Commonwealth.

11 (c.2) A principal or other chief administrator who is aware
12 that a pupil is in possession of an inhaler or epinephrine auto-
13 injector pursuant to this section shall notify each of the
14 pupil's classroom teachers of that fact and of the provisions of
15 this section.

16 (d) As used in this section, "school entity" means a school
17 district, intermediate unit or area vocational-technical school.

18 Section 2. This act shall take effect in 60 days.