

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1336 Session of 2009

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INTRODUCED BY M. SMITH, BEYER, BRENNAN, BRIGGS, CAUSER, EACHUS, FABRIZIO, FRANKEL, FREEMAN, GEIST, GEORGE, GRUCELA, HELM, HENNESSEY, HESS, HORNAMAN, KAUFFMAN, M. KELLER, KORTZ, KULA, MANN, McILVAINE SMITH, MELIO, MILLARD, MILLER, MOUL, M. O'BRIEN, PALLONE, PASHINSKI, PAYTON, READSHAW, ROAE, ROHRER, SAYLOR, SEIP, SIPTROTH, K. SMITH, STEVENSON, SWANGER, WAGNER, YOUNGBLOOD, DENLINGER, MURT AND LENTZ, APRIL 22, 2009

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AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
MARCH 17, 2010

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## 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," in school health services, further  
6 providing for possession and 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 and  
13 Epinephrine Auto-injectors.--(a) Each school entity shall  
14 develop a written policy to allow for the possession and self-  
15 administration by children of school age of an asthma inhaler,  
16 epinephrine auto-injector and the prescribed medication to be  
17 administered thereby in a school setting[.] AND IN COMPLIANCE



1 WITH THE SERVICE AGREEMENT REQUIRED BY SECTION 504 OF THE  
2 REHABILITATION ACT OF 1973 (PUBLIC LAW 93-112, 29 U.S.C. § 794)  
3 AND 22 PA. CODE CH. 15 (RELATING TO PROTECTED HANDICAPPED  
4 STUDENTS). The policy shall comply with section 504 of the  
5 Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 701  
6 et seq.), the Individuals with Disabilities Education Act  
7 (Public Law 91-230, 20 U.S.C. § 1400 et seq.) and 22 Pa. Code  
8 Ch. 15 (relating to protected handicapped students). The policy  
9 shall be distributed with the code of student conduct required  
10 under 22 Pa. Code § 12.3(c) (relating to school rules) and made  
11 available on the school entity's publicly accessible Internet  
12 website, if any.

13 (b) The policy under this section shall require a child of  
14 school age that desires to possess and self-administer an asthma  
15 inhaler or epinephrine auto-injector in a school setting to  
16 demonstrate the capability for self-administration and for  
17 responsible behavior in the use thereof and to notify the school  
18 nurse immediately following each use of an asthma inhaler or  
19 epinephrine auto-injector. The school entity shall develop a  
20 system whereby the child may [verify] demonstrate competency to  
21 the school nurse that the child is capable of self-  
22 administration and has permission for carrying and taking the  
23 medication through the use of the asthma inhaler or epinephrine  
24 auto-injector. Determination of competency for self-  
25 administration shall be based on the following factors: age,  
26 cognitive function, maturity and demonstration of responsible  
27 behavior. The school entity shall also restrict the availability  
28 of the asthma inhaler, epinephrine auto-injector and the  
29 prescribed medication contained therein from other children of  
30 school age[, with immediate confiscation of both]. The policy

1 shall specify conditions under which a student may lose the  
2 privilege to self-carry the asthma inhaler, epinephrine auto-  
3 injector and the medication [and loss of privileges] if the  
4 school policies are abused or ignored. A school entity that  
5 prevents a student from self-carrying an ASTHMA INHALER OR ←  
6 epinephrine auto-injector and the prescribed medication shall  
7 ensure that they are appropriately stored at locations in close  
8 proximity to the student prohibited from self-carrying and  
9 notify the student's classroom teachers of the places where the  
10 ASTHMA INHALER OR epinephrine auto-injector and medication are ←  
11 to be stored and means to access them.

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

13 (1) The requirement of a written statement from the  
14 physician, certified registered nurse practitioner or physician  
15 assistant that provides the name of the drug, the dose, the  
16 times when the medication is to be taken and the diagnosis or  
17 reason the medicine is needed unless the reason should remain  
18 confidential. The physician, certified registered nurse  
19 practitioner or physician assistant shall indicate the potential  
20 of any serious reaction that may occur to the medication, as  
21 well as any necessary emergency response. The physician,  
22 certified registered nurse practitioner or physician assistant  
23 shall state whether the child is qualified and able to self-  
24 administer the medication.

25 (2) The requirement of a written request from the parent or  
26 guardian that the school entity comply with the order of the  
27 physician, certified registered nurse practitioner or physician  
28 assistant. The parent's note shall include a statement relieving  
29 the school entity or any school employee of any responsibility  
30 for the benefits or consequences of the prescribed medication

1 when it is parent-authorized and acknowledging that the school  
2 entity bears no responsibility for ensuring that the medication  
3 is taken.

4 (3) The ability of the school entity to reserve the right to  
5 require a statement from the physician, certified registered  
6 nurse practitioner or physician assistant for the continued use  
7 of any medication beyond a specified time period. The school  
8 entity shall also require updated prescription and parental  
9 approval on an annual basis from the pupil.

10 (d) As used in this section, "school entity" means a school  
11 district, intermediate unit [or], area vocational-technical  
12 school or charter school.

13 (e) Nothing in this section shall be construed to create,  
14 establish or expand any civil liability on the part of any  
15 school entity or school employe.

16 (f) Within 120 days of the effective date of this  
17 subsection, the Department of ~~Education~~ HEALTH in coordination ←  
18 with the Department of ~~Health~~ EDUCATION shall provide technical ←  
19 assistance and resources and publish information on its publicly  
20 accessible Internet website regarding the administration of  
21 medication for allergies by persons employed with a school  
22 entity including the following:

23 (1) proper use of epinephrine devices;

24 (2) the importance of following the ~~district's~~ ENTITY'S ←  
25 student services plan required under 22 Pa. Code § 12.41  
26 (relating to student services) and its responsibilities to  
27 comply with section 504 of the Rehabilitation Act of 1973  
28 (Public Law 93-112, 29 U.S.C. § 794) and 22 Pa. Code Ch. 15;

29 (3) recognition of the symptoms of a severe allergic  
30 reaction;

1     (4) requirements for proper access, storage and security of  
2     student medications;  
3     (5) notification of appropriate persons following  
4     administration of medications; and  
5     (6) recordkeeping.

6     Section 2. This act shall take effect in 90 days.