

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 731 Session of
2007

INTRODUCED BY ORIE, CORMAN, RHOADES, WASHINGTON, PICCOLA,
TOMLINSON, PILEGGI, FONTANA, MUSTO, LOGAN, FOLMER, KITCHEN,
BOSCOLA, COSTA, EARLL, C. WILLIAMS AND BAKER, APRIL 9, 2007

REFERRED TO EDUCATION, APRIL 9, 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.--(a)
13 Each school entity shall develop a written policy to allow for
14 the possession and self-administration by children of school age
15 of an asthma inhaler, epinephrine auto-injector and the
16 prescribed medication to be administered thereby in a school
17 setting. A school setting shall include, but not be limited to,
18 the pupil's school, school-sponsored transportation or any
19 activity, event or program sponsored by or in which the pupil's

1 school is participating.

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

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

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

1 administer the medication.

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

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

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

1 permitted by an employe of the school or school district to use
2 an inhaler or epinephrine auto-injector because of the employe's
3 reasonable belief formed after a reasonable and ordinary inquiry
4 that the conditions prescribed in subsection (c) had been
5 satisfied. This subsection does not eliminate, limit or reduce
6 any other immunity or defense that a school district, member of
7 a school board, director or employe of a school district may
8 have under the law of this Commonwealth.

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

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

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