

1-1 By: Oliverson, Bowers (Senate Sponsor - Buckingham) H.B. No. 2243
 1-2 (In the Senate - Received from the House April 3, 2019;
 1-3 April 4, 2019, read first time and referred to Committee on
 1-4 Education; May 7, 2019, reported favorably by the following vote:
 1-5 Yeas 11, Nays 0; May 7, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Taylor	X			
1-8 Lucio	X			
1-9 Bettencourt	X			
1-10 Campbell	X			
1-11 Fallon	X			
1-12 Hall	X			
1-13 Hughes	X			
1-14 Paxton	X			
1-15 Powell	X			
1-16 Watson	X			
1-17 West	X			

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the use of prescription asthma medicine on public and
 1-22 private school campuses.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. The heading to Subchapter E, Chapter 38,
 1-25 Education Code, is amended to read as follows:

1-26 SUBCHAPTER E. MAINTENANCE AND ~~ADMINISTRATION~~ ~~[, AND DISPOSAL]~~ OF
 1-27 EPINEPHRINE AUTO-INJECTORS AND ASTHMA MEDICINE

1-28 SECTION 2. The heading to Section 38.208, Education Code,
 1-29 is amended to read as follows:

1-30 Sec. 38.208. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE
 1-31 AUTO-INJECTORS AND ASTHMA MEDICINE.

1-32 SECTION 3. Section 38.208, Education Code, is amended by
 1-33 adding Subsections (a-1), (b-1), and (f) and amending Subsections
 1-34 (c) and (e) to read as follows:

1-35 (a-1) Each school district, open-enrollment charter school,
 1-36 and private school may adopt and implement a policy authorizing a
 1-37 school nurse to maintain and administer asthma medicine at each
 1-38 campus in the district or school.

1-39 (b-1) If a policy is adopted under Subsection (a-1), the
 1-40 policy must provide that the school nurse may administer
 1-41 prescription asthma medicine to a student only if the school nurse
 1-42 has written notification from a parent or guardian of the student
 1-43 that the student has been diagnosed as having asthma and stating
 1-44 that the school nurse may administer prescription asthma medicine
 1-45 to the student. A school nurse may administer the prescription
 1-46 asthma medicine only at a school campus.

1-47 (c) The executive commissioner of the Health and Human
 1-48 Services Commission, in consultation with the commissioner of
 1-49 education, and with advice from the advisory committee as
 1-50 appropriate, shall adopt rules regarding the maintenance,
 1-51 administration, and disposal of an epinephrine auto-injector at a
 1-52 school campus subject to a policy adopted under Subsection (a) and
 1-53 the maintenance and administration of asthma medicine at a school
 1-54 campus subject to a policy adopted under Subsection (a-1). The
 1-55 rules must establish:

1-56 (1) the number of epinephrine auto-injectors
 1-57 available at each campus;

1-58 (2) the amount of prescription asthma medicine
 1-59 available at each campus;

1-60 (3) the process for each school district,
 1-61 open-enrollment charter school, and private school to check the

2-1 inventory of epinephrine auto-injectors and asthma medicine at
 2-2 regular intervals for expiration and replacement; and

2-3 (4) [(3)] the amount of training required for school
 2-4 personnel and school volunteers to administer an epinephrine
 2-5 auto-injector.

2-6 (e) The supply of epinephrine auto-injectors at each campus
 2-7 must be stored in a secure location and be easily accessible to
 2-8 school personnel and school volunteers authorized and trained to
 2-9 administer an epinephrine auto-injector. The supply of asthma
 2-10 medicine at each campus must be stored in a secure location and be
 2-11 easily accessible to the school nurse.

2-12 (f) The policy described by Subsection (a-1) may not require
 2-13 a school district, open-enrollment charter school, or private
 2-14 school to purchase prescription asthma medicine or require any
 2-15 other expenditure related to the maintenance or administration of
 2-16 asthma medicine that would result in a negative fiscal impact on the
 2-17 district or school.

2-18 SECTION 4. The heading to Section 38.211, Education Code,
 2-19 is amended to read as follows:

2-20 Sec. 38.211. PRESCRIPTION OF EPINEPHRINE AUTO-INJECTORS
 2-21 AND ASTHMA MEDICINE.

2-22 SECTION 5. Sections 38.211(a), (b), (c), (e), and (f),
 2-23 Education Code, are amended to read as follows:

2-24 (a) A physician or person who has been delegated
 2-25 prescriptive authority under Chapter 157, Occupations Code, may
 2-26 prescribe epinephrine auto-injectors or asthma medicine in the name
 2-27 of a school district, open-enrollment charter school, or private
 2-28 school.

2-29 (b) A physician or other person who prescribes epinephrine
 2-30 auto-injectors or asthma medicine under Subsection (a) shall
 2-31 provide the school district, open-enrollment charter school, or
 2-32 private school with a standing order for the administration of, as
 2-33 applicable:

2-34 (1) an epinephrine auto-injector to a person
 2-35 reasonably believed to be experiencing anaphylaxis; or

2-36 (2) asthma medicine to a person reasonably believed to
 2-37 be experiencing a symptom of asthma and who has provided written
 2-38 notification and permission as required by Section 38.208(b-1).

2-39 (c) The standing order under Subsection (b) is not required
 2-40 to be patient-specific, and the epinephrine auto-injector or asthma
 2-41 medicine may be administered to a person without a previously
 2-42 established physician-patient relationship.

2-43 (e) An order issued under this section must contain:

2-44 (1) the name and signature of the prescribing
 2-45 physician or other person;

2-46 (2) the name of the school district, open-enrollment
 2-47 charter school, or private school to which the order is issued;

2-48 (3) the quantity of epinephrine auto-injectors or
 2-49 asthma medicine to be obtained and maintained under the order; and

2-50 (4) the date of issue.

2-51 (f) A pharmacist may dispense an epinephrine auto-injector
 2-52 or asthma medicine to a school district, open-enrollment charter
 2-53 school, or private school without requiring the name or any other
 2-54 identifying information relating to the user.

2-55 SECTION 6. Section 38.212, Education Code, is amended to
 2-56 read as follows:

2-57 Sec. 38.212. NOTICE TO PARENTS. If a school district,
 2-58 open-enrollment charter school, or private school implements a
 2-59 policy under this subchapter [~~for the maintenance, administration,~~
 2-60 ~~and disposal of epinephrine auto-injectors~~], the district or school
 2-61 shall provide written notice to a parent or guardian of each student
 2-62 enrolled in the district or school. Notice required under this
 2-63 section must be provided before a a [~~the~~] policy is implemented by the
 2-64 district or school and before the start of each school year.

2-65 SECTION 7. Section 38.215(a), Education Code, is amended to
 2-66 read as follows:

2-67 (a) A person who in good faith takes, or fails to take, any
 2-68 action under this subchapter is immune from civil or criminal
 2-69 liability or disciplinary action resulting from that action or

- 3-1 failure to act, including:
- 3-2 (1) issuing an order for epinephrine auto-injectors or
- 3-3 asthma medicine;
- 3-4 (2) supervising or delegating the administration of an
- 3-5 epinephrine auto-injector or asthma medicine;
- 3-6 (3) possessing, maintaining, storing, or disposing of
- 3-7 an epinephrine auto-injector or asthma medicine;
- 3-8 (4) prescribing an epinephrine auto-injector or
- 3-9 asthma medicine;
- 3-10 (5) dispensing:
- 3-11 (A) an epinephrine auto-injector; or
- 3-12 (B) asthma medicine, provided that permission
- 3-13 has been granted as provided by Section 38.208(b-1);
- 3-14 (6) administering, or assisting in administering, an
- 3-15 epinephrine auto-injector or asthma medicine, provided that
- 3-16 permission has been granted as provided by Section 38.208(b-1);
- 3-17 (7) providing, or assisting in providing, training,
- 3-18 consultation, or advice in the development, adoption, or
- 3-19 implementation of policies, guidelines, rules, or plans; or
- 3-20 (8) undertaking any other act permitted or required
- 3-21 under this subchapter.

3-22 SECTION 8. This Act takes effect immediately if it receives

3-23 a vote of two-thirds of all the members elected to each house, as

3-24 provided by Section 39, Article III, Texas Constitution. If this

3-25 Act does not receive the vote necessary for immediate effect, this

3-26 Act takes effect September 1, 2019.

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