

By: Buckingham

S.B. No. 1665

A BILL TO BE ENTITLED

AN ACT

relating to the use of prescription asthma medicine on public and private school campuses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

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

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

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

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

(b-1) If a policy is adopted under Subsection (a-1), the policy must provide that the school nurse may administer prescription asthma medicine to a student only if the school nurse has written notification from a parent or guardian of the student that the student has been diagnosed as having asthma and stating

1 that the school nurse may administer prescription asthma medicine  
2 to the student. A school nurse may administer the prescription  
3 asthma medicine only at a school campus.

4 (c) The executive commissioner of the Health and Human  
5 Services Commission, in consultation with the commissioner of  
6 education, and with advice from the advisory committee as  
7 appropriate, shall adopt rules regarding the maintenance,  
8 administration, and disposal of an epinephrine auto-injector at a  
9 school campus subject to a policy adopted under Subsection (a) and  
10 the maintenance and administration of asthma medicine at a school  
11 campus subject to a policy adopted under Subsection (a-1). The  
12 rules must establish:

13 (1) the number of epinephrine auto-injectors  
14 available at each campus;

15 (2) the amount of prescription asthma medicine  
16 available at each campus;

17 (3) the process for each school district,  
18 open-enrollment charter school, and private school to check the  
19 inventory of epinephrine auto-injectors and asthma medicine at  
20 regular intervals for expiration and replacement; and

21 (4) [~~3~~] the amount of training required for school  
22 personnel and school volunteers to administer an epinephrine  
23 auto-injector.

24 (e) The supply of epinephrine auto-injectors at each campus  
25 must be stored in a secure location and be easily accessible to  
26 school personnel and school volunteers authorized and trained to  
27 administer an epinephrine auto-injector. The supply of asthma

1 medicine at each campus must be stored in a secure location and be  
2 easily accessible to the school nurse.

3 (f) The policy described by Subsection (a-1) may not require  
4 a school district, open-enrollment charter school, or private  
5 school to purchase prescription asthma medicine or require any  
6 other expenditure related to the maintenance or administration of  
7 asthma medicine that would result in a negative fiscal impact on the  
8 district or school.

9 SECTION 4. The heading to Section 38.211, Education Code,  
10 is amended to read as follows:

11 Sec. 38.211. PRESCRIPTION OF EPINEPHRINE AUTO-INJECTORS  
12 AND ASTHMA MEDICINE.

13 SECTION 5. Sections 38.211(a), (b), (c), (e), and (f),  
14 Education Code, are amended to read as follows:

15 (a) A physician or person who has been delegated  
16 prescriptive authority under Chapter 157, Occupations Code, may  
17 prescribe epinephrine auto-injectors or asthma medicine in the name  
18 of a school district, open-enrollment charter school, or private  
19 school.

20 (b) A physician or other person who prescribes epinephrine  
21 auto-injectors or asthma medicine under Subsection (a) shall  
22 provide the school district, open-enrollment charter school, or  
23 private school with a standing order for the administration of, as  
24 applicable:

25 (1) an epinephrine auto-injector to a person  
26 reasonably believed to be experiencing anaphylaxis; or

27 (2) asthma medicine to a person reasonably believed to

1 be experiencing a symptom of asthma and who has provided written  
2 notification and permission as required by Section 38.208(b-1).

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

7 (e) An order issued under this section must contain:

8 (1) the name and signature of the prescribing  
9 physician or other person;

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

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

14 (4) the date of issue.

15 (f) A pharmacist may dispense an epinephrine auto-injector  
16 or asthma medicine to a school district, open-enrollment charter  
17 school, or private school without requiring the name or any other  
18 identifying information relating to the user.

19 SECTION 6. Section 38.212, Education Code, is amended to  
20 read as follows:

21 Sec. 38.212. NOTICE TO PARENTS. If a school district,  
22 open-enrollment charter school, or private school implements a  
23 policy under this subchapter [~~for the maintenance, administration,~~  
24 ~~and disposal of epinephrine auto-injectors~~], the district or school  
25 shall provide written notice to a parent or guardian of each student  
26 enrolled in the district or school. Notice required under this  
27 section must be provided before a [~~the~~] policy is implemented by the

1 district or school and before the start of each school year.

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

4 (a) A person who in good faith takes, or fails to take, any  
5 action under this subchapter is immune from civil or criminal  
6 liability or disciplinary action resulting from that action or  
7 failure to act, including:

8 (1) issuing an order for epinephrine auto-injectors or  
9 asthma medicine;

10 (2) supervising or delegating the administration of an  
11 epinephrine auto-injector or asthma medicine;

12 (3) possessing, maintaining, storing, or disposing of  
13 an epinephrine auto-injector or asthma medicine;

14 (4) prescribing an epinephrine auto-injector or  
15 asthma medicine;

16 (5) dispensing:

17 (A) an epinephrine auto-injector; or

18 (B) asthma medicine, provided that permission  
19 has been granted as provided by Section 38.208(b-1);

20 (6) administering, or assisting in administering, an  
21 epinephrine auto-injector or asthma medicine, provided that  
22 permission has been granted as provided by Section 38.208(b-1);

23 (7) providing, or assisting in providing, training,  
24 consultation, or advice in the development, adoption, or  
25 implementation of policies, guidelines, rules, or plans; or

26 (8) undertaking any other act permitted or required  
27 under this subchapter.

1           SECTION 8. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2019.