

SENATE BILL NO. 211

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE EMERGENCY USE OF EPINEPHRINE IN A SCHOOL SETTING TO INCLUDE NASAL SPRAY; AMENDING SECTIONS 20-5-420 AND 20-5-421, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 20-5-420, MCA, is amended to read:

"20-5-420. Self-administration or possession of asthma, severe allergy, or anaphylaxis

medication. (1) As used in 20-5-421 and this section, the following definitions apply:

(a) "Anaphylaxis" means a systemic allergic reaction that can be fatal in a short time period and is also known as anaphylactic shock.

(b) "Asthma" means a chronic disorder or condition of the lungs that requires lifetime, ongoing medical intervention.

(c) "Medication" means a medicine, including inhaled bronchodilators, inhaled corticosteroids, and autoinjectable epinephrine, and epinephrine nasal spray, prescribed by a licensed physician as defined in 37-3-102, a physician assistant who has been authorized to prescribe medications as provided in 37-20-404, or an advanced practice registered nurse with prescriptive authority as provided in 37-8-202(1)(h).

(d) "Self-administration" means a pupil's discretionary use of the medication prescribed for the pupil.

(e) "Severe allergies" means a life-threatening hypersensitivity to a specific substance such as

1 food, pollen, or dust.

2 (2) A school, whether public or nonpublic, shall permit the possession or self-administration of
3 medication, as prescribed, by a pupil with asthma, severe allergies, or anaphylaxis if the parents or guardians
4 of the pupil provide to the school:

5 (a) written authorization, acknowledging and agreeing to the liability provisions in subsection (4),
6 for the possession or self-administration of medication as prescribed;

7 (b) a written statement from the pupil's physician, physician assistant, or advanced practice
8 registered nurse containing the following information:

9 (i) the name and purpose of the medication;

10 (ii) the prescribed dosage; and

11 (iii) the time or times at which or the special circumstances under which the medication is to be
12 administered as prescribed;

13 (c) documentation that the pupil has demonstrated to the health care practitioner and the school
14 nurse, if available, the skill level necessary to self-administer the asthma, severe allergy, or anaphylaxis
15 medication as prescribed; and

16 (d) documentation that the pupil's physician, physician assistant, or advanced practice registered
17 nurse has formulated a written treatment plan for managing asthma, severe allergies, or anaphylaxis episodes
18 of the pupil and for medication use, as prescribed, by the pupil during school hours.

19 (3) The information provided by the parents or guardians must be kept on file in the office of the
20 school nurse or, in the absence of a school nurse, the school's administrator.

21 (4) The school district or nonpublic school and its employees and agents are not liable as a result
22 of any injury arising from the self-administration of medication by the pupil unless an act or omission is the
23 result of gross negligence, willful and wanton conduct, or an intentional tort. The parents or guardians of the
24 pupil must be given a written notice and sign a statement acknowledging that the school district or nonpublic
25 school may not incur liability as a result of any injury arising from the self-administration of medication by the
26 pupil and that the parents or guardians shall indemnify and hold harmless the school district or nonpublic school
27 and its employees and agents against any claims, except a claim based on an act or omission that is the result
28 of gross negligence, willful or wanton misconduct, or an intentional tort.

1 (5) The permission for self-administration of asthma, severe allergy, or anaphylaxis medication is
 2 effective for the school year for which it is granted and must be renewed each subsequent school year or, if the
 3 medication expires or the dosage, frequency of administration, or other conditions change, upon fulfillment of
 4 the requirements of this section.

5 (6) If the requirements of this section are fulfilled, a pupil with asthma, severe allergies, or
 6 anaphylaxis may possess and use the pupil's medication as prescribed:

7 (a) while in school;

8 (b) while at a school-sponsored activity;

9 (c) while under the supervision of school personnel;

10 (d) before or after normal school activities, such as while in before-school or after-school care on
 11 school-operated property; or

12 (e) while in transit to or from school or school-sponsored activities.

13 (7) If provided by the parent, an individual who has executed a caretaker relative educational
 14 authorization affidavit pursuant to 20-5-503, an individual who has executed a caretaker relative medical
 15 authorization affidavit pursuant to 40-6-502, or a guardian and in accordance with documents provided by the
 16 pupil's physician, physician assistant, or advanced practice registered nurse, asthma, severe allergy, or
 17 anaphylaxis medication may be kept by the pupil and backup medication must be kept at a pupil's school in a
 18 predetermined location or locations to which the pupil has access in the event of an asthma, severe allergy, or
 19 anaphylaxis emergency.

20 (8) Immediately after using epinephrine during school hours, a student shall report to the school
 21 nurse or other adult at the school who shall provide followup care, including making a 9-1-1 emergency call.

22 (9) Youth correctional facilities are exempt from this section and shall adopt policies related to
 23 access and use of asthma, severe allergy, or anaphylaxis medications."
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25 **Section 2.** Section 20-5-421, MCA, is amended to read:

26 **"20-5-421. Emergency use of epinephrine in school setting.** A school, whether public or
 27 nonpublic, may maintain a stock supply of autoinjectable epinephrine or epinephrine nasal spray to be
 28 administered by a school nurse or other authorized personnel to any student or nonstudent as needed for

1 actual or perceived anaphylaxis. A school that intends to obtain an order for emergency use of epinephrine in a
2 school setting or at related activities shall adhere to the following requirements:

3 (1) A school that stocks an epinephrine autoinjector or nasal spray shall develop a protocol related
4 to the training of school employees, the maintenance and location of the epinephrine autoinjector or nasal
5 spray, and immediate and long-term followup to the administration of the medication, including making a 9-1-1
6 emergency call.

7 (2) The epinephrine autoinjector or nasal spray must be prescribed by a physician, advanced
8 practice registered nurse, or physician assistant. The school must be designated as the patient, and each
9 prescription for an epinephrine autoinjector or nasal spray must be filled by a licensed pharmacy.

10 (3) The school shall provide training to authorized personnel. The training must include causes of
11 anaphylaxis, recognition of signs and symptoms of anaphylaxis, indications for the administration of
12 epinephrine, the administration technique, and the need for immediate access to a certified emergency
13 responder. Training must be provided by a school nurse, certified emergency responder, or other health care
14 professional.

15 (4) The epinephrine autoinjector or nasal spray must be kept in a secure and easily accessible
16 location.

17 (5) A school nurse or other authorized personnel may, in good faith, administer the epinephrine to
18 any student or nonstudent who is experiencing a potential life-threatening anaphylactic reaction based on the
19 protocol developed by the school.

20 (6) If a school stocks an epinephrine autoinjector or nasal spray that has been prescribed to the
21 school, that school shall inform parents or guardians about the potential use of the epinephrine autoinjector or
22 nasal spray in an anaphylactic emergency. The school shall make the protocol available upon request.

23 (7) In accordance with the provisions of 27-1-714, a school district or nonpublic school and its
24 employees and agents are not liable as a result of any injury arising from the administration of epinephrine to a
25 student or nonstudent unless an act or omission is the result of gross negligence, willful or wanton misconduct,
26 or an intentional tort."

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28 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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