

HOUSE BILL REPORT

ESB 5104

As Passed House - Amended:

April 16, 2013

Title: An act relating to placing epinephrine autoinjectors in schools.

Brief Description: Placing epinephrine autoinjectors in schools.

Sponsors: Senators Mullet, Frockt, Hatfield, Litzow, Ericksen, Fain and Kohl-Welles.

Brief History:

Committee Activity:

Education: 3/14/13, 3/26/13 [DPA];

Appropriations Subcommittee on Education: 4/4/13 [DPA(APPE w/o ED)].

Floor Activity:

Passed House - Amended: 4/16/13, 96-0.

Brief Summary of Engrossed Bill (As Amended by House)

- Permits school districts and schools to maintain a supply of epinephrine autoinjectors, including those that are prescribed in the name of the school district or school.
- Permits school nurses and designated trained school personnel to use the school supply of epinephrine autoinjectors to respond to students exhibiting anaphylactic reactions who have prescriptions for epinephrine.
- Permits school nurses to use the school supply of epinephrine autoinjectors to respond to students exhibiting anaphylactic reactions who do not have prescriptions for epinephrine.
- Requires the Office of the Superintendent of Public Instruction to make a recommendation to the Legislature by December 1, 2013, regarding whether to designate other trained school employees to administer epinephrine autoinjectors to students without prescriptions when a school nurse is not in the vicinity.

HOUSE COMMITTEE ON EDUCATION

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass as amended. Signed by 17 members: Representatives Santos, Chair; Stonier, Vice Chair; Dahlquist, Ranking Minority Member; Magendanz, Assistant Ranking Minority Member; Bergquist, Fagan, Haigh, Hargrove, Hawkins, Hayes, Hunt, Lytton, Maxwell, McCoy, Orwall, Pollet and Seaquist.

Minority Report: Do not pass. Signed by 3 members: Representatives Klippert, Pike and Warnick.

Staff: Luke Wickham (786-7146).

HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON EDUCATION

Majority Report: Do pass as amended by Committee on Appropriations Subcommittee on Education and without amendment by Committee on Education. Signed by 9 members: Representatives Haigh, Chair; Fagan, Ranking Minority Member; Dahlquist, Haler, Maxwell, Pettigrew, Seaquist, Sullivan and Wilcox.

Minority Report: Do not pass. Signed by 1 member: Representative Carlyle.

Staff: Jessica Harrell (786-7349).

Background:

Anaphylaxis.

Anaphylaxis is a serious allergic reaction that is rapid in onset and might cause death. Symptoms may include throat swelling, an itchy rash, and low blood pressure. The causes of this allergic reaction may include medication, food, and insect bites or stings. The World Health Organization classifies epinephrine as an essential medication for the treatment of anaphylaxis. An epinephrine autoinjector is a delivery system that contains the proper dose of epinephrine and is used to treat anaphylaxis. These autoinjectors are disposable and supply the epinephrine through a spring-loaded syringe.

Guidelines for Care of Students with Anaphylaxis.

RCW 28A.210.380 directs the Office of the Superintendent of Public Instruction (OSPI), in consultation with the Department of Health, to develop policy guidelines for schools to prevent anaphylaxis and deal with medical emergencies resulting from it. These guidelines were developed and distributed in March 2009. The statute further requires that school districts use the guidelines to develop and adopt a policy to assist schools in prevention of anaphylaxis.

Summary of Amended Bill:

School districts and nonpublic schools are allowed to maintain a supply of epinephrine autoinjectors at schools. Licensed health professionals with prescription authority may prescribe epinephrine autoinjectors in the name of the school district or school that can be maintained for use at the school. Epinephrine prescriptions must have a standing order for the administration of school-supplied, undesignated epinephrine autoinjectors for potentially

life-threatening allergic reactions. Epinephrine autoinjectors may be donated to schools, but must be accompanied by a prescription.

If a student does have a prescription for epinephrine, the school nurse or designated trained school personnel may administer an epinephrine autoinjector maintained by the school to respond to an anaphylactic reaction under a standing protocol. If a student does not have a prescription for epinephrine, the school nurse may administer an epinephrine autoinjector maintained by the school. Epinephrine autoinjectors may be used on school property, including the school bus, and during sanctioned trips away from school property. The school nurse or designated trained school personnel may carry epinephrine autoinjectors on these trips.

If a student is harmed due to the administration of epinephrine:

- licensed health professionals and pharmacists may not be liable for the injury unless he or she issued the prescription with a conscious disregard for safety; and
- school employees, schools, school districts, the governing board, and the chief administrator are not liable if the school employee administering the epinephrine did so in substantial compliance with a prescription and policies of the district.

School employees, except licensed nurses, who do not agree in writing to using epinephrine autoinjectors as part of their job description, may file with the school district a written letter of refusal to use epinephrine autoinjectors. This letter may not serve as grounds for actions negatively affecting the employee's contract status.

The OSPI must make a recommendation to the Legislature by December 1, 2013, regarding whether to designate other trained school employees to administer epinephrine autoinjectors to students without prescriptions when a school nurse is not in the vicinity.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Education):

(In support) The risk of administering epinephrine to someone who does not need it is very low. However, the risk of not administering epinephrine to a student who needs it is very high. This bill is very permissive. The intent is not to create pharmacies in our schools, but to help people understand the benefits of epinephrine. If a student is undiagnosed, the striking amendment contains a provision for the OSPI to make a recommendation regarding whether other school personnel should administer epinephrine to students without prescriptions. Schools' overriding role is to help support school nurses in maintaining the safety of children. One nurse covers five buildings that are about 20 minutes from each other. The average ratio is one school nurse per 2,000 students.

Anaphylactic reactions can be severe for almost anyone. Symptoms can include vomiting, hives, and throat swelling. Students have died in this country because schools were not able to administer epinephrine. Students do not always keep epinephrine autoinjectors in their pockets as they are bulky and difficult to transport. It is easy to demonstrate how to use an EpiPen, as the instructions are right on the side. It just needs to be armed and then jabbed into the thigh. There is no objection to including other individuals who may prescribe epinephrine in the bill. The benefits of administering epinephrine far outweigh the risks.

(In support with concerns) There are not very many school nurses in Washington; they are registered nurses and they get an additional certificate from the state to meet the needs of public schools. If these procedures were conducted in a hospital by unlicensed individuals, there would be serious legal ramifications. It could be very difficult for secretaries, paraeducators, playground supervisors, and bus drivers to identify an illness and give the right medication at the right moment. Having school nurses do this to begin with is very appropriate and it is also appropriate to have the OSPI make a recommendation around whether other trained designated school personnel should administer epinephrine. At some point there should be a discussion about how many medical procedures classified staff can conduct.

(Other) This bill is a symptom of a larger conversation about student health. There are lots of areas of student health that are not being addressed. This bill should be set aside for this session to allow a broader conversation about student health, school nurses, and what should be done in school buildings to ensure that all student health issues are addressed. School directors would like a somewhat more permissive conversation about school health to allow them the flexibility to address school health issues.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations Subcommittee on Education):

(In support) This bill is permissive and requires no school to stock an epinephrine injector. The costs to school districts are likely to be very minimal, if anything at all, since many of the pharmaceutical companies will donate the epinephrine to the districts. The costs to the Office of the Superintendent of Public Instruction (OSPI) are primarily related to the review and recommendation of rules for the administration of epinephrine by non-medical staff for undiagnosed students. The OSPI will come back with carefully considered recommendations regarding non-medical personnel administering epinephrine to students. Nurses have always had the ability to administer epinephrine. Nonmedical staff will be able to administer epinephrine for those students with a diagnosed condition.

This bill is a good safety measure for kids that already have a prescription and provides access to kids who do not have a prescription. About 25 percent of kids that have an allergic reaction in schools have not yet been diagnosed. Current training for nonmedical personnel is too short and should be increased. There are medical services provided to students that would not be permitted in other facilities. Over the past several years, nurses have been asked to delegate certain medical procedures. We should research this issue and create a cohesive policy for all medical treatment. The only request is that the policy be linked back to what the Nursing Care Quality Assurance Commission is doing.

(Opposed) The Washington PTA would have been in support of the bill had the additional changes not been made that restricted administration of epinephrine to undiagnosed students. This bill, as amended by the Education Committee, changes the way that emergencies are treated whereas previously it did not. In an emergency situation you cannot restrict someone from helping a student in a life or death situation. Now it injects non-safety first aid reasons for preventing people from helping a student in an emergency situation. Nurses are never in the school buildings. There are only office staff. It would be great if nurses were there all the time, but they are not and staff need to be able to administer this drug when it is needed. This bill is not good as it is currently amended.

Persons Testifying (Education): (In support) Senator Mullet, prime sponsor; Lonnie Johns-Brown and Lynnette Ondeck, School Nurse Organization of Washington; Dave Mastin, Mylan, Inc.; Kevin Doods, Washington State Society of Allergy, Asthma, and Immunology; Sally Porter; Nikhil Shridhar; Charlie Porter; and Bob Rudolph, Grandparents Rights of Washington State.

(In support with concerns) Lucinda Young, Washington Education Association.

(Other) Marie Sullivan, Washington State School Directors' Association.

Persons Testifying (Appropriations Subcommittee on Education): (In support) Senator Mullet, prime sponsor; Paula Meyer, Nursing Care Quality Assurance Commission; Lucinda Young, Washington Education Association; Lonnie Johns-Brown, School Nurses of Washington; and Dave Mastin, Mylan, Incorporated.

(Opposed) Ramona Hattendorf, Washington PTA.

Persons Signed In To Testify But Not Testifying (Education): None.

Persons Signed In To Testify But Not Testifying (Appropriations Subcommittee on Education): None.