

SENATE BILL REPORT

ESB 5104

As Amended by House, 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: Early Learning & K-12 Education: 2/01/13, 2/04/13 [DP].

Passed Senate: 2/08/13, 48-0.

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

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass.

Signed by Senators Litzow, Chair; Dammeier, Vice Chair; McAuliffe, Ranking Member; Rolfes, Assistant Ranking Member; Billig, Brown, Cleveland, Fain, Hill, Mullet and Rivers.

Staff: Katherine Taylor (786-7434)

Background: An epinephrine autoinjector is a medical device used to deliver a measured dose of epinephrine, also known as adrenaline, using autoinjector technology, most frequently for the treatment of acute allergic reactions to avoid or treat the onset of anaphylactic shock.

An autoinjector is a medical device designed to deliver a single dose of a particular, typically life-saving, drug. Most autoinjectors are spring-loaded syringes.

Anaphylactic shock is a serious allergic reaction that is rapid in onset and may cause death. It typically causes a number of symptoms including an itchy rash, throat swelling, and low blood pressure. Common causes include insect bites or stings, foods, and medications.

Trade names for an epinephrine autoinjector device include EpiPen, Twinject, Adrenaclick, Anapen, Jext, Allerject, and Auvi-Q.

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.

Summary of Engrossed Bill: School districts and nonpublic schools may maintain at a school, in a designated location, a supply of epinephrine autoinjectors based on the number of students enrolled in the school.

A physician may prescribe epinephrine autoinjectors in the name of the school district or school, to be maintained for use when necessary. Epinephrine prescriptions must be accompanied by a standing physician's order for the administration of school-supplied, undesignated epinephrine autoinjectors for potentially life-threatening allergic reactions. Epinephrine autoinjectors may be obtained from donation sources, but must require a physician's prescription.

When a student does not have an epinephrine autoinjector or a prescription for an epinephrine autoinjector on file, the school nurse or designated trained school personnel may utilize the school district or school supply of epinephrine autoinjectors to respond to an anaphylactic reaction under a standing protocol from a physician.

Epinephrine autoinjectors may be used on school property, including the school building, playground, and school bus, as well as during field trips or sanctioned excursions away from school property.

If a student is injured or harmed due to the administration of epinephrine that a physician has prescribed and a pharmacist has dispensed to a school, the physician and pharmacist may not be held responsible for the injury unless he or she issued the prescription with a conscious disregard for safety.

Similarly, if a student is injured or harmed due to the administration of epinephrine that a school employee has administered to a student, the school employee may not be held responsible for the injury if the employee acted in good faith, professionally, and according to their training level. The school employee may be held responsible for the injury if they administered the epinephrine injection with a conscious disregard for safety.

A school employee, except one who is a licensed nurse, who has not agreed in writing to the use of epinephrine autoinjectors as a specific part of their job description, may file with the school district a written letter of refusal to use epinephrine autoinjectors. This written letter of refusal may not serve as grounds for discharge, nonrenewal of an employment contract, or other action adversely affecting the employee's contract status.

A school, school district, nonpublic school, or the Office of Superintendent of Public Instruction (OSPI) is not responsible for any injury that occurs due to a physician and pharmacist issuing a epinephrine prescription with a conscious disregard for safety or for a school employee who administered the epinephrine injection with a conscious disregard for safety.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Food allergies are on the rise. One in 13 kids have food allergies. Allergies to peanuts and tree nuts are the most common. During an allergic reaction, we only have minutes to react. Using an epi pen will buy us valuable time. Currently, you cannot get or use an epi pen at a school if you do not have a prescription. A lot of kids do not discover allergies until they are at school. This bill is not a mandate. This bill allows nurses to give epi pens to any kid at school if in need of one. If a nurse is not there, the nurse can delegate the responsibility to someone else at the school. Multiple organizations and associations support this bill. It is devastating to watch kids go into allergic shock and not be able to do anything. Insects and bees can also cause an allergic reaction. Kids may also forget to bring epi pens with them to school and this bill would help with that. Kids die from allergic reactions when schools do not have epi pens. This will save kids' lives.

CON: We support the intent of this bill but this bill is permissive. The certificated nurse population in our school districts is shrinking. Nurses are not always available to administer epi pens. Nurses have delegated administration of certain medications to other staff. But this workforce has also dramatically shrunk. We will not have the benefit of a medical plan under this bill. Instead, nurses and school staff will be using their judgment in the moment. There may be liability issues with this bill.

OTHER: We have a robust system in place already. We have care plans. We have trained staff to give epi pens to students who have a recognized need for them. We are concerned about this bill. The person who needs training to administer an epi pen is an administrator. We could change who does the training in this bill to take liability off the nurses and put it on the districts. We should collect information and data on this issue. This bill will affect classified employees such as nurses that have been cut. There will need to be training. What about bus drivers and playground assistants? How do we do this in poorly funded school systems?

Persons Testifying: PRO: Kathleen Johnson, OSPI, Kevin Dooms, Sally Porter, Michael San Soucie, citizens; Nikhil Shridhar, citizen–student; Kelly Morgan, WA Food Allergy Eczema and Asthma Support Team.

CON: Lucinda Young, WA Education Assn.

OTHER: Doug Nelson, Public School Employees of WA, Service Employees International Union Local 1948.

House Amendment(s): Licensed health professionals with prescriptive authority may prescribe epinephrine autoinjectors for use in schools.

School nurses or designated trained school personnel are authorized to utilize the school district or school supply of epinephrine autoinjectors to respond to student anaphylactic reactions for students with epinephrine prescriptions.

School nurses are authorized to utilize the school district or school supply of epinephrine autoinjectors to respond to student anaphylactic reactions for students without epinephrine prescriptions.

School employees, schools, school districts, the governing board, and the chief administrator are not liable for injuries associated with school employee administration of epinephrine if the school employee administering the epinephrine did so in substantial compliance with a prescription and policies of the district.

Requires OSPI 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.

Removes the physician requirement from the standing order for school administration of epinephrine autoinjectors, guided anaphylaxis plans, and the standing protocol to respond to anaphylactic reactions. Makes a technical change replacing the term action with the term care in the phrase guided anaphylaxis care plan.