COMMITTEE REPORT

May 9, 2013

**H. 3725**

Introduced by Reps. Putnam, Ballentine, Patrick, Huggins, H.A. Crawford, Mitchell, Allison, Barfield, Chumley, Felder, Gagnon, Henderson, Hixon, Owens, Rivers, Ryhal, Simrill, Spires, Stringer, Taylor, Willis, Wood, Sellers, Long and Erickson

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Read the first time April 30, 2013.

**THE COMMITTEE ON EDUCATION**

To whom was referred a Bill (H. 3725) to amend the Code of Laws of South Carolina, 1976, by enacting the “Safe Access to Vital Epinephrine (SAVE) Act”; by adding Section 59‑63‑95, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting Section 59-63-95(E), as contained in SECTION 2, and inserting:

/ (E) Participating governing authorities, in consultation with the State Department of Education and the Department of Health and Environmental Control, shall implement a plan for the management of students with life‑threatening allergies enrolled in the schools under their jurisdiction. The plan must include, but need not be limited to:

(1) education and training for school personnel on the management of students with life‑threatening allergies, including training related to the administration of an epinephrine auto‑injector, techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis, and the standards and procedures for the storage and administration of an epinephrine auto‑injector;

(2) procedures for responding to life‑threatening allergic reactions, including emergency follow‑up procedures; and

(3) a process for the development of individualized health care and allergy action plans for every student with a known life‑threatening allergy. /

Amend the bill further, by deleting Section 59-63-95(H), as contained in SECTION 2, and inserting:

/ (H)(1) A school, school district, school district governing authority, private school governing authority, the Department of Health and Environmental Control, the State Department of Education, and employees, volunteers, and other agents of all of those entities including, but not limited to, a physician, advanced practice registered nurse, physician assistant, pharmacist, school nurse, and other designated school personnel, who undertake an act identified in subsection (H)(2), are not liable for damages caused by injuries to a student or another person resulting from the administration or self‑administration of an epinephrine auto‑injector, regardless of whether:

(a) the student’s parent or guardian, or a physician, advanced practice registered nurse, or physician assistant, authorized the administration or self‑administration; or

(b) the other person to whom a school nurse or other designated school personnel provides or administers an epinephrine auto‑injector gave authorization for the administration.

(2) The immunity granted pursuant to subsection (H)(1) applies to individuals and entities who:

(a) develop or implement, or participate in the development or implementation of, a plan, pursuant to subsection (E), including, but not limited to, providing training to school nurses and other designated school personnel;

(b) make publicly available a plan, pursuant to subsection (F);

(c) prescribe epinephrine auto‑injectors, pursuant to subsection (B);

(d) dispense epinephrine auto‑injectors, pursuant to subsection (B);

(e) provide epinephrine auto‑injectors to students or other people for self‑administration, pursuant to subsection (C); or

(f) administer epinephrine auto‑injectors to students or other people, pursuant to subsection (C).

(3) The immunity granted pursuant to this subsection:

(a) does not apply to acts or omissions constituting gross negligence or wilful, wanton, or reckless conduct; and

(b) is in addition to, and not in lieu of, immunity provided pursuant to Sections 15‑1‑310, 15‑78‑10, and any other provisions of law.

(4) The administration of an epinephrine auto‑injector pursuant to this section is not the practice of medicine or nursing.” /

Renumber sections to conform.

Amend title to conform.

JOHN E. COURSON for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE “SAFE ACCESS TO VITAL EPINEPHRINE (SAVE) ACT”; BY ADDING SECTION 59‑63‑95 SO AS TO ALLOW SCHOOL DISTRICT AND PRIVATE SCHOOL GOVERNING AUTHORITIES TO OBTAIN SUPPLIES OF EPINEPHRINE AUTO‑INJECTORS FOR SCHOOLS TO USE IN CERTAIN CIRCUMSTANCES; TO AUTHORIZE CERTAIN PEOPLE TO PRESCRIBE AND DISPENSE PRESCRIPTIONS FOR EPINEPHRINE AUTO‑INJECTORS; TO AUTHORIZE CERTAIN SCHOOL PERSONNEL TO PROVIDE EPINEPHRINE AUTO‑INJECTORS TO STUDENTS FOR SELF‑ADMINISTRATION OF THE INJECTOR; TO AUTHORIZE CERTAIN PERSONNEL TO ADMINISTER EPINEPHRINE AUTO‑INJECTORS TO STUDENTS AND OTHER PEOPLE; TO PROVIDE FOR THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND SCHOOL DISTRICT AND PRIVATE SCHOOL GOVERNING AUTHORITIES TO DEVELOP AND FACILITATE IMPLEMENTATION OF GUIDELINES FOR MANAGEMENT OF STUDENTS WITH LIFE‑THREATENING ALLERGIES, INCLUDING FOR ADMINISTRATION AND PROVISION OF EPINEPHRINE AUTO‑INJECTORS TO STUDENTS AND OTHER PEOPLE; AND TO PROVIDE FOR IMMUNITY FROM LIABILITY WITH REGARD TO USE OF EPINEPHRINE AUTO‑INJECTORS BY SCHOOLS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Safe Access to Vital Epinephrine Act”.

SECTION 2. Article 1, Chapter 63, Title 59 is amended by adding:

“Section 59‑63‑95. (A) As used in this section, and unless the specific context indicates otherwise:

(1) ‘Administer’ means the direct application of an epinephrine auto‑injector into the body of a person.

(2) ‘Advanced practice registered nurse’ means a registered nurse prepared for an advanced practice registered nursing role by virtue of the additional knowledge gained through an advanced formal education program in a specialty area pursuant to Chapter 33, Title 40.

(3) ‘Designated school personnel’ means an employee, agent, or volunteer of a school designated by the governing authority of the school district or the governing authority of the private school who has completed the training required in accordance with the guidelines of the governing authority to provide for or administer an epinephrine auto‑injector to a student.

(4) ‘Epinephrine auto‑injector’ means a device that automatically injects a premeasured dose of epinephrine into a person.

(5) ‘Governing authority of a school’ means the board of trustees of a school district or the board of trustees of a private school.

(6) ‘Participating governing authorities’ means governing authorities of school districts and governing authorities of private schools that authorize schools to maintain a supply of undesignated epinephrine auto‑injectors and to provide and administer epinephrine auto‑injectors to students and other people pursuant to Sections 59‑63‑95(B) and (C).

(7) ‘Physician’ means a doctor of medicine licensed by the South Carolina Board of Medical Examiners pursuant to Article 1, Chapter 47, Title 40.

(8) ‘Physician assistant’ means a health care professional licensed to assist with the practice of medicine with a physician supervisor pursuant to Article 7, Chapter 47, Title 40.

(9) ‘Provide’ means to supply one or more epinephrine auto‑injectors to a student or other person.

(10) ‘School’ means a public or private school.

(11) ‘Self‑administration’ means a student or other person’s discretionary use of an epinephrine auto‑injector, whether provided by the student or the other person or by a school nurse or other designated school personnel pursuant to this section.

(B) Notwithstanding another provision of law, a physician, an advanced practice registered nurse licensed to prescribe medication pursuant to Section 40‑33‑34, and a physician assistant licensed to prescribe medication pursuant to Sections 40‑47‑955 through 40‑47‑965 may prescribe epinephrine auto‑injectors maintained in the name of a school for use in accordance with subsection (D). Notwithstanding another provision of law, licensed pharmacists and physicians may dispense epinephrine auto‑injectors in accordance with a prescription issued pursuant to this subsection. Notwithstanding another provision of law, a school may maintain a stock supply of epinephrine auto‑injectors in accordance with a prescription issued pursuant to this subsection. For the purposes of administering and storing epinephrine auto-injectors, schools are not subject to Chapter 43, Title 40 or Chapter 99 of the South Carolina Code of State Regulations.

(C) The governing authority of a school district or private school may authorize school nurses and other designated school personnel to:

(1) provide an epinephrine auto‑injector to a student to self‑administer the epinephrine auto‑injector in accordance with a prescription specific to the student that is on file with the school;

(2) administer an epinephrine auto‑injector to a student in accordance with a prescription specific to the student on file with the school;

(3) administer an epinephrine auto‑injector to a student or other individual on school premises whom the school nurse or other designated school personnel believes in good faith is experiencing anaphylaxis, in accordance with a standing protocol of a physician, an advanced practice registered nurse licensed to prescribe medication pursuant to Section 40‑33‑34, or a physician assistant licensed to prescribe medication pursuant to Sections 40‑47‑955 through 40‑47‑965, regardless of whether the student or other individual has a prescription for an epinephrine auto‑injector.

(D) The governing authority of a school district or the governing authority of a private school may enter into arrangements with manufacturers of epinephrine auto‑injectors or third‑party suppliers of epinephrine auto‑injectors to obtain epinephrine auto‑injectors at fair‑market, free, or reduced prices.

(E) Participating governing authorities, in consultation with the State Department of Education and the Department of Health and Environmental Control, shall implement a plan for the management of students with life‑threatening food allergies enrolled in the schools under their jurisdiction. The plan must include, but need not be limited to:

(1) education and training for school personnel on the management of students with life‑threatening allergies, including training related to the administration of an epinephrine auto‑injector, techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis, and the standards and procedures for the storage and administration of an epinephrine auto‑injector;

(2) procedures for responding to life‑threatening allergic reactions, including emergency follow‑up procedures; and

(3) a process for the development of individualized health care and allergy action plans for every student with a known life‑threatening allergy.

(F) Participating governing authorities shall make the plan developed pursuant to subsection (E) available on the websites of the school district and private school governing authorities and on the websites of schools; provided, however, if a school does not have a website, make the plan publicly available through other practicable means as determined by such governing authorities.

(G) This section applies only to Participating governing authorities.

(H) A school, school district, school district governing authority, private school governing authority, the Department of Health and Environmental Control, the Department of Education, and employees, volunteers, and other agents of all of those entities, including, but not limited to, a physician, advanced practice registered nurse, physician assistant, pharmacist, school nurse, and other designated school personnel, who:

(1) develop or implement, or participate in the development or implementation of, a plan, pursuant to subsection (E), including, but not limited to, providing training to school nurses and other designated school personnel;

(2) make publicly available a plan, pursuant to subsection (F);

(3) prescribe epinephrine auto‑injectors, pursuant to subsection (B);

(4) dispense epinephrine auto‑injectors, pursuant to subsection (B);

(5) provide epinephrine auto‑injectors to students or other people for self‑administration, pursuant to subsection (C); or

(6) administer epinephrine auto‑injectors to students or other people, pursuant to subsection (C), must not be liable for damages for injuries that result from the administration or self‑administration of an epinephrine auto‑injector to a student, regardless of whether the student’s parent or guardian, or a physician, advanced practice registered nurse, or physician assistant, authorized the administration or self‑administration, or to another person, regardless of whether the other person to whom a school nurse or other designated school personnel provides or administers an epinephrine auto‑injector gave authorization for the administration. This immunity does not apply to acts or omissions constituting gross negligence or wilful, wanton, or reckless conduct. The administration of an epinephrine auto‑injector pursuant to this section is not the practice of medicine or nursing. The immunity from liability provided under this subsection is in addition to, and not in lieu of, immunity provided pursuant to Sections 15‑1‑310, 15‑78‑10, and any other provisions of law.”

SECTION 3. This act takes effect upon approval of the Governor.

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