

CHAPTER 112

(SB 127)

AN ACT relating to student health and safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 158.832 is amended to read as follows:

As used in KRS 158.830 to 158.838:

- (1) "Anaphylaxis" means an allergic reaction resulting from sensitization following prior contact with an antigen which can be a life-threatening emergency. Anaphylaxis may be triggered by, among other agents, foods, drugs, injections, insect stings, and physical activity;~~;~~
- (2) **"Bronchodilator rescue inhaler" means medication used to relieve asthma symptoms or respiratory distress along with devices and device components needed to appropriately administer the medication, including but not limited to disposable spacers;**
- (3) "Medications" means all medicines individually prescribed by a health care practitioner for the student that pertain to his or her asthma or *areis* used to treat anaphylaxis, including but not limited to ~~injectable~~~~[EpiPen or other auto-injectable]~~ epinephrine **devices or bronchodilator rescue inhalers**;
- ~~(4)~~~~(3)~~ "Health care practitioner" means a physician or other health care provider who has prescriptive authority;
- ~~(5)~~~~(4)~~ "Self-administration" means the student's use of his or her prescribed asthma or anaphylaxis medications, pursuant to prescription or written direction from the health care practitioner; and
- ~~(6)~~~~(5)~~ "Seizure action plan" means a written, individualized health plan designed to acknowledge and prepare for the health care needs of a student diagnosed with a seizure disorder that is prepared by the student's treating physician.

➔Section 2. KRS 158.836 is amended to read as follows:

- (1) Upon fulfilling the requirements of KRS 158.834, a student with asthma or a student who is at risk of having anaphylaxis may possess and use medications to treat the asthma or anaphylaxis when at school, at a school-sponsored activity, under the supervision of school personnel, or before and after normal school activities while on school properties including school-sponsored child care or after-school programs.
- (2) A student who has a documented life-threatening allergy shall have:
 - (a) An **injectable** epinephrine ~~device~~~~[auto-injector]~~ provided by his or her parent or guardian in his or her possession or in the possession of the school nurse, school administrator, or his or her designee in all school environments that the student may be in, including the classroom, the cafeteria, the school bus, and on field trips; and
 - (b) A written individual health care plan in place for the prevention and proactive management for the student in all school environments that the student may be in, including the classroom, the cafeteria, the school bus, and on field trips. The individual health care plan required under this paragraph may be incorporated in the student's individualized education program required under Pub. L. No. 94-142 or the student's 504 plan required under Pub. L. No. 93-112.
- (3) (a) Each school is encouraged to keep an **injectable** epinephrine ~~device~~~~[auto-injector]~~ in a minimum of two (2) locations in the school, including but not limited to the school office and the school cafeteria, so that epinephrine may be administered to any student believed to be having a life-threatening allergic or anaphylactic reaction. Schools electing to keep **injectable** epinephrine ~~devices~~~~[auto-injectors]~~ shall maintain them in a secure, accessible, but unlocked location. The provisions of this paragraph shall apply to the extent that the **injectable** epinephrine ~~devices~~~~[auto-injectors]~~ are donated to a school or a school has sufficient funding to purchase the **injectable** epinephrine ~~devices~~~~[auto-injectors]~~.
 - (b) **Each school is encouraged to keep a bronchodilator rescue inhaler in a minimum of two (2) locations in the school, including but not limited to the school office and athletic office, so that bronchodilator rescue inhalers may be administered to any student believed to be having asthma**

symptoms or respiratory distress. Schools electing to keep bronchodilator rescue inhalers shall maintain them in a secure, accessible, but unlocked location. The provisions of this paragraph shall apply to the extent that the bronchodilator rescue inhalers are donated to a school or a school has sufficient funding to purchase the bronchodilator rescue inhalers.

- (c) Each school electing to keep **injectable** epinephrine **devices or bronchodilator rescue inhalers**~~{auto-injectors}~~ shall implement policies and procedures for managing a student's life-threatening allergic reaction, ~~for~~ anaphylactic reaction, **or asthma** developed and approved by the local school board.
- ~~(d)~~~~(e)~~ The Kentucky Department for Public Health shall develop clinical protocols in the school health section of the Core Clinical Service Guide manual that is maintained in the county or district public health department to address **injectable** epinephrine **devices and bronchodilator rescue inhalers**~~{auto-injectors}~~ kept by schools under this subsection and to advise on clinical administration of the **injectable** epinephrine **devices and bronchodilator rescue inhalers**~~{auto-injectors}~~. The protocols shall be developed in collaboration with local health departments or local clinical providers and local schools and local school districts.
- (4) Any school employee authorized under KRS 156.502 to administer medication shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the administration or the assistance in the administration of epinephrine **or a bronchodilator rescue inhaler** to any student believed in good faith to be having a life-threatening allergic or anaphylactic reaction **or asthma symptoms or respiratory distress**.

➔Section 3. KRS 311.645 is amended to read as follows:

As used in KRS 311.645 to 311.647:

- (1) "Anaphylaxis" means an allergic reaction resulting from sensitization following prior contact with an antigen which can be a life-threatening emergency, including reactions triggered by, among other agents, foods, drugs, injections, insect stings, and physical activity;
- (2) "Administer" means to directly apply an **injectable** epinephrine **device**~~{auto-injector}~~ to the body of an individual;
- (3) "**Asthma**" means a respiratory condition marked by coughing, wheezing, or shortness of breath often triggered by allergies, exercise, or irritants;
- (4) "Authorized entity" means an entity that may at any time have allergens present that are capable of causing a severe allergic reaction and has an individual who holds a certificate issued under KRS 311.646 on the premises or officially associated with the entity. The term includes but is not limited to licensed child-care centers and certified family child-care homes, restaurants, recreation camps, youth sports leagues, theme parks and resorts, and sports arenas;
- (5) "**Bronchodilator rescue inhaler**" means medication used to relieve asthma symptoms or respiratory distress along with devices and device components needed to appropriately administer the medication, including but not limited to disposable spacers;
- ~~(6)~~~~(4)~~ "Certified individual" means an individual who successfully completes an approved educational training program and **obtains**~~{obtain}~~ a certificate, as described in KRS 311.646;
- ~~(7)~~~~(5)~~ "**Injectable** epinephrine **device**~~{auto-injector}~~" means a single-use device used to administer a premeasured dose of epinephrine;
- ~~(8)~~~~(6)~~ "Health-care practitioner" means a physician or other health-care provider who has prescriptive authority; and
- ~~(9)~~~~(7)~~ "Self-administration" means an individual's administration of an **injectable** epinephrine **device or bronchodilator rescue inhaler**~~{auto-injector}~~ on herself or himself.

➔Section 4. KRS 311.646 is amended to read as follows:

- (1) A health-care practitioner may prescribe **injectable** epinephrine **devices and bronchodilator rescue inhalers**~~{auto-injectors}~~ in the name of an authorized entity or to a certified individual for use in accordance with this section.
- (2) A pharmacist may dispense **injectable** epinephrine **devices and bronchodilator rescue inhalers**~~{auto-injectors}~~ pursuant to a prescription issued in the name of an authorized entity or to a certified individual.

- (3) The Department for Public Health, the Kentucky Board of Medical Licensure, the Kentucky Board of Nursing, the American Red Cross, or other training programs approved by the Department for Public Health may conduct in-person or on-line training for administering lifesaving treatment to persons believed in good faith to be experiencing severe allergic reactions **and asthma symptoms or respiratory distress** and issue a certificate of training to persons completing the training. The training shall include instructions for recognizing the symptoms of anaphylaxis **and asthma** and administering an **injectable epinephrine device or a bronchodilator rescue inhaler**~~{auto-injector}~~.
- (4) An individual who has a certificate issued under this section may:
- (a) Receive a prescription for **injectable epinephrine devices and bronchodilator rescue inhalers**~~{auto-injectors}~~ from a health-care practitioner;
 - (b) Possess prescribed **injectable epinephrine devices and bronchodilator rescue inhalers**~~{auto-injectors}~~; and
 - (c) In an emergency situation when a physician is not immediately available and the certified individual in good faith believes a person is experiencing a severe allergic reaction, **asthma symptoms, or respiratory distress** regardless of whether the person has a prescription for an **injectable epinephrine device or a bronchodilator rescue inhaler**~~{auto-injector}~~ or has previously been diagnosed with an allergy **or asthma**:
 1. Administer an **injectable epinephrine device or a bronchodilator rescue inhaler**~~{auto-injector}~~ to the person; and
 2. Provide an **injectable epinephrine device or a bronchodilator rescue inhaler**~~{auto-injector}~~ to the person for immediate self-administration.
- (5) An authorized entity that acquires and stocks a supply of **injectable epinephrine devices or bronchodilator rescue inhalers**~~{auto-injectors}~~ with a valid prescription shall:
- (a) Store the **injectable epinephrine devices and bronchodilator rescue inhalers**~~{auto-injectors}~~ in accordance with manufacturer's instructions and with any additional requirements established by the department; and
 - (b) Designate an employee or agent who holds a certificate issued under this section to be responsible for the storage, maintenance, and general oversight of **injectable epinephrine devices and bronchodilator rescue inhalers**~~{auto-injectors}~~ acquired by the authorized entity.
- (6) Any individual or entity who administers or provides an **injectable epinephrine device**~~{auto-injector}~~ to a person who is experiencing a severe allergic reaction shall contact the local emergency medical services system as soon as possible.
- (7) Any individual or entity who acquires and stocks a supply of **injectable epinephrine devices**~~{auto-injectors}~~ in accordance with this section shall notify an agent of the local emergency medical services system and the local emergency communications or vehicle dispatch center of the existence, location, and type of the **injectable epinephrine devices**~~{auto-injectors}~~ acquired if a severe allergic reaction has occurred.

➔Section 5. KRS 311.647 is amended to read as follows:

- (1) Any individual or entity who, in good faith and without compensation, renders emergency care or treatment by the use of an **injectable epinephrine device or a bronchodilator rescue inhaler**~~{auto-injector}~~ shall be immune from civil liability for any personal injury as a result of the care or treatment, or as a result of any act or failure to act in providing or arranging further medical treatment, if the person acts as an ordinary, reasonable prudent person would have acted under the same or similar circumstances.
- (2) The immunity from civil liability for any personal injury under subsection (1) of this section includes:
 - (a) A health-care practitioner who prescribes or authorizes the emergency use of the **injectable epinephrine device or bronchodilator rescue inhaler**~~{auto-injector}~~;
 - (b) A pharmacist who fills a prescription for the **injectable epinephrine device or bronchodilator rescue inhaler**~~{auto-injector}~~;
 - (c) A certified individual who provides or administers the **injectable epinephrine devices or bronchodilator rescue inhaler**~~{auto-injector}~~;

- (d) An authorized entity who stores or provides the *injectable* epinephrine *device or bronchodilator rescue inhaler*~~{auto-injector}~~ to a certified individual or authorized noncertified individual; and
 - (e) An individual trainer or training entity providing the certified individual.
- (3) The immunity from civil liability under subsection (1) of this section shall not apply if the personal injury results from the gross negligence or willful or wanton misconduct of the person rendering the emergency care.
- (4) The requirements of KRS 311.646(6) shall not apply to any individual who provides or administers an *injectable* epinephrine *device or a bronchodilator rescue inhaler*~~{auto-injector}~~ if that individual is acting as a Good Samaritan under KRS 313.035 and 411.148.

Signed by Governor March 24, 2021.