

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 11-0347.01 Richard Sweetman

SENATE BILL 11-012

SENATE SPONSORSHIP

Brophy,

HOUSE SPONSORSHIP

Massey,

Senate Committees
Education

House Committees
Education

A BILL FOR AN ACT

101 **CONCERNING A PUBLIC SCHOOL STUDENT'S AUTHORITY TO POSSESS**
102 **PRESCRIPTION MEDICATIONS AT SCHOOL.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill eliminates statutory language requiring a student to have a treatment plan before he or she may possess or self-administer medication to treat his or her asthma, food or other allergy, anaphylaxis, or other related, life-threatening condition.

A student may possess and self-administer on school grounds,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unam ended
March 14, 2011

HOUSE
Am ended 2nd Reading
March 11, 2011

SENATE
Am ended 3rd Reading
February 21, 2011

SENATE
Am ended 2nd Reading
February 18, 2011

upon a school bus, or at any school-sponsored event any medication that is prescribed by a physician to be used by the student (prescribed medication). A school district board of education (district board) may adopt a policy that restricts a student from possessing and self-administering a prescribed medication. In adopting such a policy, the district board shall comply with rules promulgated by the state board of education (state board).

On or before January 1, 2012, the state board shall promulgate rules for district boards that wish to adopt policies restricting students' possession and self-administration of prescription medication. The rules shall require that before adopting any such policy, a district board make a determination that a student's possession or self-administration of a prescription medication poses a significant risk of harm to the student or to other students, which risk of harm outweighs the risk posed to the student by the enforcement of the policy. The rules shall also describe factors that a district board shall consider before making such a determination.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 SECTION 1. 22-1-119.5 (2) (a) and (3), Colorado Revised
3 Statutes, are amended to read:

4 22-1-119.5. Asthma, food allergy, and anaphylaxis health
5 management - self-administered medication. (2) (a) A student with
6 asthma, a food allergy, other severe allergies, or a related, life-threatening
7 condition may possess and self-administer medication to treat the
8 student's asthma, food or other allergy, anaphylaxis, or other related,
9 life-threatening condition if the student has a treatment plan approved
10 pursuant to this subsection (2) OR THE STUDENT'S SCHOOL DISTRICT
11 BOARD OF EDUCATION HAS ADOPTED A POLICY FOR STUDENT POSSESSION
12 AND ADMINISTRATION OF PRESCRIPTION MEDICATION PURSUANT TO
13 SECTION 22-1-119.3.

14 (3) A student with a treatment plan approved pursuant to
15 subsection (2) of this section OR WHOSE SCHOOL DISTRICT BOARD OF
16 EDUCATION HAS ADOPTED A POLICY FOR STUDENT POSSESSION AND

1 ADMINISTRATION OF PRESCRIPTION MEDICATION PURSUANT TO SECTION
2 22-1-119.3 may possess and self-administer his or her medication while
3 in school, while at school-sponsored activities, and while in transit to or
4 from school or school-sponsored activities.

5 SECTION 2. Article 1 of title 22, Colorado Revised Statutes, is
6 amended BY THE ADDITION OF A NEW SECTION to read:

7 22-1-119.3. Policy for student possession and administration
8 of prescription medication - rules. (1) A SCHOOL DISTRICT BOARD OF
9 EDUCATION MAY ADOPT AND IMPLEMENT A POLICY WHEREBY, EXCEPT AS
10 DESCRIBED IN SUBSECTION (3) OF THIS SECTION, A STUDENT ENROLLED IN
11 A SCHOOL OF THE SCHOOL DISTRICT MAY POSSESS AND SELF-ADMINISTER
12 ON SCHOOL GROUNDS, UPON A SCHOOL BUS, OR AT ANY
13 SCHOOL-SPONSORED EVENT ANY MEDICATION THAT IS PRESCRIBED BY A
14 LICENSED HEALTH CARE PRACTITIONER TO BE USED BY THE STUDENT.

15 (2) (a) IF A SCHOOL DISTRICT BOARD OF EDUCATION ADOPTS AND
16 IMPLEMENTS A POLICY DESCRIBED BY SUBSECTION (1) OF THIS SECTION, A
17 PARENT OR LEGAL GUARDIAN OF A STUDENT WHO IS ENROLLED IN A
18 SCHOOL OF THE SCHOOL DISTRICT AND FOR WHOM MEDICATION IS
19 PRESCRIBED BY A LICENSED HEALTH CARE PRACTITIONER SHALL
20 NOTIFY THE SCHOOL'S ADMINISTRATION OF THE STUDENT'S MEDICAL
21 NEEDS AND OF THE FACT THAT THE STUDENT MAY BE IN POSSESSION OF HIS
22 OR HER PRESCRIBED MEDICATIONS AS DESCRIBED IN SUBSECTION (1) OF
23 THIS SECTION. THE NOTIFICATION, WHEN APPROPRIATE, SHALL INCLUDE
24 THE TREATMENT PLAN THAT HAS BEEN DEvised FOR THE STUDENT BY A
25 LICENSED HEALTH CARE PRACTITIONER.

26 (b) IF A SCHOOL'S ADMINISTRATION RECEIVES NOTICE FROM A
27 STUDENT'S PARENT OR LEGAL GUARDIAN THAT THE STUDENT MAY BE IN

1 POSSESSION OF HIS OR HER PRESCRIBED MEDICATIONS, THE SCHOOL'S
2 ADMINISTRATION SHALL ENSURE THAT SUCH NOTICE IS PROVIDED TO THE
3 STUDENT'S TEACHERS AND THE SCHOOL NURSE OR OTHER PERSON WHO IS
4 DESIGNATED TO PROVIDE HEALTH SERVICES TO STUDENTS AT THE SCHOOL.

5 (c) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE
6 ABILITY OF A PUBLIC SCHOOL TO REQUIRE A PARENT OR LEGAL GUARDIAN
7 OF A STUDENT WHO HAS MEDICATION PRESCRIBED FOR A
8 LIFE-THREATENING CONDITION TO PROVIDE TO THE SCHOOL A SUFFICIENT
9 SUPPLY OF THE MEDICATION TO BE STORED AT THE SCHOOL TO BE
10 ADMINISTERED TO THE STUDENT IN THE EVENT OF A HEALTH EMERGENCY.

11 (3) (a) A POLICY ADOPTED BY A SCHOOL DISTRICT BOARD OF
12 EDUCATION PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL
13 INCLUDE, BUT NEED NOT BE LIMITED TO:

14 (I) A PROCESS BY WHICH A SCHOOL MAY RESTRICT A STUDENT
15 FROM POSSESSING AND SELF-ADMINISTERING ON SCHOOL GROUNDS, ON A
16 SCHOOL BUS, OR AT A SCHOOL-SPONSORED EVENT A MEDICATION THAT IS
17 PRESCRIBED BY A LICENSED HEALTH CARE PRACTITIONER TO BE USED BY
18 THE STUDENT. THE PROCESS SHALL REQUIRE THE SCHOOL
19 ADMINISTRATION TO MAKE A DETERMINATION AS TO WHETHER A
20 STUDENT'S POSSESSION OR SELF-ADMINISTRATION OF THE MEDICATION
21 POSES A SIGNIFICANT RISK OF HARM TO THE STUDENT OR TO OTHER
22 STUDENTS.

23 (II) A REQUIREMENT THAT IF A STUDENT HAS MEDICATION
24 PRESCRIBED FOR A LIFE-THREATENING CONDITION, A SUFFICIENT
25 SUPPLY OF THE MEDICATION IS PROVIDED TO THE SCHOOL BY THE
26 STUDENT'S PARENT OR LEGAL GUARDIAN, STORED SAFELY AT THE SCHOOL,
27 AND KEPT READILY AVAILABLE TO BE ADMINISTERED TO THE STUDENT IN

1 A TIMELY FASHION IN THE EVENT OF A HEALTH EMERGENCY.

2 (b) A STUDENT WHO POSSESSES A PRESCRIBED MEDICATION ON
3 SCHOOL GROUNDS, UPON A SCHOOL BUS, OR AT A SCHOOL-SPONSORED
4 EVENT IN ACCORDANCE WITH A POLICY ADOPTED BY A SCHOOL DISTRICT
5 PURSUANT TO THIS SECTION MAY POSSESS ONLY ENOUGH OF HIS OR HER
6 PRESCRIBED MEDICATION TO RENDER A SUFFICIENT DOSAGE TO THE
7 STUDENT TO ADEQUATELY TREAT THE STUDENT'S CONDITION FOR A SINGLE
8 DAY OR FOR THE DURATION OF THE EVENT, WHICHEVER IS APPROPRIATE;
9 EXCEPT THAT, THIS PROVISION SHALL NOT APPLY TO A STUDENT WHO
10 REQUIRES AND POSSESSES AN INSULIN PUMP OR OTHER MEDICAL DEVICE
11 THAT DELIVERS DOSAGES OF PRESCRIBED MEDICATION TO THE STUDENT
12 OVER A PERIOD OF TIME THAT EXCEEDS A SINGLE DAY OR THE DURATION
13 OF THE EVENT.

14 (c) A STUDENT SHALL NOT POSSESS OR SELF-ADMINISTER MEDICAL
15 MARIJUANA ON SCHOOL GROUNDS, UPON A SCHOOL BUS, OR AT ANY
16 SCHOOL-SPONSORED EVENT.

17 (4) THE STATE BOARD OF EDUCATION MAY PROMULGATE RULES
18 FOR THE IMPLEMENTATION OF THIS SECTION.

19 (5) A SCHOOL DISTRICT BOARD OF EDUCATION THAT ADOPTS A
20 POLICY PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE EXEMPT
21 FROM RULES PROMULGATED BY THE STATE BOARD OF EDUCATION
22 PURSUANT TO THE "COLORADO SCHOOLCHILDREN'S ASTHMA, FOOD
23 ALLERGY, AND ANAPHYLAXIS HEALTH MANAGEMENT ACT", SECTION
24 22-1-119.5.

25 SECTION 3. 22-2-135 (3) (c), Colorado Revised Statutes, is
26 amended to read:

27 22-2-135. Food allergy and anaphylaxis management - rules.

1 (3) (c) The notice required by paragraph (b) of this subsection (3) shall
2 include language that encourages parents and legal guardians of students
3 for whom medication has been prescribed for treatment of a food allergy
4 or anaphylaxis to give to the school nurse or other administrator of the
5 student's school a supply of the medication. ~~unless the student has an~~
6 approved treatment plan pursuant to section 22-1-119.5 that authorizes
7 the student to self-administer the medication.

8 SECTION 4. 22-30.5-518 (2) (b), Colorado Revised Statutes, is
9 amended to read:

10 22-30.5-518. Institute charter school food allergy and
11 anaphylaxis management policy required. (2) (b) The notice required
12 by paragraph (a) of this subsection (2) shall include language that
13 encourages parents and legal guardians of students for whom medication
14 has been prescribed for treatment of a food allergy or anaphylaxis to give
15 to the school nurse or other administrator of the student's school a supply
16 of the medication. ~~unless the student has an approved treatment plan~~
17 pursuant to section 22-1-119.5 that authorizes the student to
18 self-administer the medication.

19 SECTION 5. Safety clause. The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.