

By Senator Polsky

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1 A bill to be entitled
2 An act relating to the use of epinephrine auto-
3 injectors on public K-20 campuses; amending s. 381.88,
4 F.S.; providing that state universities and Florida
5 College System institutions are considered authorized
6 entities for specified purposes relating to the
7 emergency use of epinephrine auto-injectors; amending
8 s. 1002.20, F.S.; requiring, rather than authorizing,
9 public schools to purchase or acquire a supply of
10 epinephrine auto-injectors for specified purposes;
11 requiring such epinephrine auto-injectors be
12 maintained in a specified location; defining the term
13 "cafeteria"; creating s. 1004.0963, F.S.; requiring
14 state universities and Florida College System
15 institutions to purchase or acquire a supply of
16 epinephrine auto-injectors for specified purposes;
17 providing requirements for such supplies of
18 epinephrine auto-injectors; defining the term
19 "cafeteria"; requiring state universities and Florida
20 College System institutions to develop specified
21 protocols; providing requirements for such protocols;
22 providing liability for the use of such epinephrine
23 auto-injectors; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Paragraph (b) of subsection (2) of section
28 381.88, Florida Statutes, is amended to read:
29 381.88 Emergency allergy treatment.—

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30 (2) As used in this section and s. 381.885, the term:

31 (b) "Authorized entity" means an entity or organization at
32 or in connection with which allergens capable of causing a
33 severe allergic reaction may be present. The term includes, but
34 is not limited to, restaurants, recreation camps, youth sports
35 leagues, theme parks and resorts, and sports arenas. However, a
36 school as described in s. 1002.20(3)(i) or s. 1002.42(17)(b), or
37 a state university or Florida College System institution as
38 described in s. 1004.0963, is an authorized entity for the
39 purposes of s. 381.885(4) and (5) only.

40 Section 2. Paragraph (i) of subsection (3) of section
41 1002.20, Florida Statutes, is amended to read:

42 1002.20 K-12 student and parent rights.—Parents of public
43 school students must receive accurate and timely information
44 regarding their child's academic progress and must be informed
45 of ways they can help their child to succeed in school. K-12
46 students and their parents are afforded numerous statutory
47 rights including, but not limited to, the following:

48 (3) HEALTH ISSUES.—

49 (i) *Epinephrine use and supply.*—

50 1. A student who has experienced or is at risk for life-
51 threatening allergic reactions may carry an epinephrine auto-
52 injector and self-administer epinephrine by auto-injector while
53 in school, participating in school-sponsored activities, or in
54 transit to or from school or school-sponsored activities if the
55 school has been provided with parental and physician
56 authorization. The State Board of Education, in cooperation with
57 the Department of Health, shall adopt rules for such use of
58 epinephrine auto-injectors that shall include provisions to

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59 protect the safety of all students from the misuse or abuse of
60 auto-injectors. A school district, county health department,
61 public-private partner, and their employees and volunteers shall
62 be indemnified by the parent of a student authorized to carry an
63 epinephrine auto-injector for any and all liability with respect
64 to the student's use of an epinephrine auto-injector pursuant to
65 this paragraph.

66 2. Each ~~A~~ public school must ~~may~~ purchase a supply of
67 epinephrine auto-injectors from a wholesale distributor as
68 defined in s. 499.003 or ~~may~~ enter into an arrangement with a
69 wholesale distributor or manufacturer as defined in s. 499.003
70 for the epinephrine auto-injectors at fair market ~~fair-market~~,
71 free, or reduced prices for use in the event a student has an
72 anaphylactic reaction. The epinephrine auto-injectors must be
73 maintained in a secure location in each school's cafeteria and
74 may be maintained in other secure locations on the public
75 school's premises. For purposes of this subparagraph, the term
76 "cafeteria" means a space to eat or that serves food and that
77 has a capacity of 50 or more persons. The participating school
78 district shall adopt a protocol developed by a licensed
79 physician for the administration by school personnel who are
80 trained to recognize an anaphylactic reaction and to administer
81 an epinephrine auto-injection. The supply of epinephrine auto-
82 injectors may be provided to and used by a student authorized to
83 self-administer epinephrine by auto-injector under subparagraph
84 1. or trained school personnel.

85 3. The school district and its employees, agents, and the
86 physician who provides the standing protocol for school
87 epinephrine auto-injectors are not liable for any injury arising

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88 from the use of an epinephrine auto-injector administered by
89 trained school personnel who follow the adopted protocol and
90 whose professional opinion is that the student is having an
91 anaphylactic reaction:

92 a. Unless the trained school personnel's action is willful
93 and wanton;

94 b. Notwithstanding that the parents or guardians of the
95 student to whom the epinephrine is administered have not been
96 provided notice or have not signed a statement acknowledging
97 that the school district is not liable; and

98 c. Regardless of whether authorization has been given by
99 the student's parents or guardians or by the student's
100 physician, physician assistant, or advanced practice registered
101 nurse.

102 Section 3. Section 1004.0963, Florida Statutes, is created
103 to read:

104 1004.0963 Epinephrine use and supply.-

105 (1) Each state university or Florida College System
106 institution must purchase a supply of epinephrine auto-injectors
107 from a wholesale distributor as defined in s. 499.003 or enter
108 into an arrangement with a wholesale distributor or manufacturer
109 as defined in s. 499.003 for the epinephrine auto-injectors at
110 fair market, free, or reduced prices for use in the event an
111 individual has an anaphylactic reaction. The epinephrine auto-
112 injectors must be maintained in a secure location in each of the
113 state university's or Florida College System institution's
114 cafeterias and may be maintained in other secure locations on
115 each campus. For purposes of this section, the term "cafeteria"
116 means a space to eat or that serves food and that has a capacity

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117 of 50 or more persons, including dining halls. The state
118 university or Florida College System institution shall adopt a
119 protocol developed by a licensed physician for the
120 administration by the state university's or Florida College
121 System institution's personnel who are trained to recognize an
122 anaphylactic reaction and to administer an epinephrine auto-
123 injection.

124 (2) The state university or Florida College System
125 institution and its employees, agents, and the physician who
126 provides the standing protocol for epinephrine auto-injectors
127 are not liable for any injury arising from the use of an
128 epinephrine auto-injector administered by trained state
129 university or Florida College System institution personnel who
130 follow the adopted protocol and whose professional opinion is
131 that the individual is having an anaphylactic reaction:

132 (a) Unless the trained state university or Florida College
133 System institution personnel's action is willful and wanton;

134 (b) Notwithstanding that the individual to whom the
135 epinephrine is administered has not been provided notice or has
136 not signed a statement acknowledging that the state university
137 or Florida College System institution is not liable; and

138 (c) Regardless of whether authorization has been given by
139 the individual or the individual's parent or legal guardian if
140 the individual is under the age of 18.

141 Section 4. This act shall take effect July 1, 2021.