

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0851.01 Richard Sweetman

SENATE BILL 09-226

SENATE SPONSORSHIP

Sandoval,

HOUSE SPONSORSHIP

(None),

Senate Committees

Health and Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING POLICIES FOR THE MANAGEMENT OF FOOD ALLERGIES**
102 **AMONG SCHOOL CHILDREN.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires the state board of education (state board) to promulgate rules establishing a policy for the management of food allergies and anaphylaxis among students enrolled in schools of school districts and institute charter schools (statewide policy). Requires the state board to consult with the department of public health and environment (department) in adopting the statewide policy. Specifies mandatory provisions for the statewide policy.

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.

Requires each school district to adopt a policy for the management of food allergies and anaphylaxis among children in schools of the school district. Requires each school district policy to include provisions that satisfy the requirements of the statewide policy. Requires each school district to ensure that each school of the school district makes available self-injectable epinephrine for the purpose of providing emergency medical treatment in the event that a student or other person suffers anaphylaxis as a result of an allergic reaction to food.

Requires the state charter school institute to adopt a policy for the management of food allergies and anaphylaxis among children in institute charter schools. Requires the institute charter school policy to include provisions that satisfy the requirements of the statewide policy. Requires the state charter school institute to ensure that each institute charter school makes available self-injectable epinephrine for the purpose of providing emergency medical treatment in the event that a student or other person suffers anaphylaxis as a result of an allergic reaction to food.

Requires the department to consult with the state board concerning the adoption of the statewide policy. Requires the department to develop, maintain, and make available to school districts and institute charter schools a standard form to be used by school districts to gather information from physicians and parents and guardians of students concerning students' risk of food allergies and anaphylaxis and the treatment thereof.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Food allergies are a growing public health concern in the
5 United States, especially among children;

6 (b) From 1997 to 2007, the incidence of reported food allergies
7 among children less than eighteen years of age increased eighteen
8 percent, and at least one study has shown that the incidence of peanut
9 allergies among children less than eighteen years of age has doubled in
10 this time;

11 (c) In a recent survey of four hundred elementary school nurses,
12 nearly half of them reported that the number of children with food

1 allergies in their schools had increased during a recent five-year period;

2 (d) Recent studies indicate that hospitalizations resulting in food
3 allergy diagnoses for children have increased, and from 2004 to 2006,
4 there was an average of 9,537 hospital discharges in the United States
5 each year that included a diagnosis of a food allergy for a child less than
6 eighteen years of age;

7 (e) Allergies to milk, eggs, fish, shellfish, tree nuts, peanuts,
8 wheat, and soy account for ninety percent of all allergic reactions to food;
9 and

10 (f) There is no known cure for a food allergy, and strict avoidance
11 of an offending food is the only known way to prevent an allergic
12 reaction.

13 (2) The general assembly further finds and declares that:

14 (a) Anaphylaxis is a systemic allergic reaction that is rapid in
15 onset and can kill a person within minutes;

16 (b) Food allergies are the leading cause of anaphylaxis outside of
17 hospital settings, accounting for approximately one-third of all instances
18 of anaphylaxis;

19 (c) Anaphylaxis attacks resulting from food allergies cause an
20 estimated fifty thousand emergency room visits, two thousand
21 hospitalizations, and between one hundred fifty and two hundred deaths
22 in the United States each year; and

23 (d) Studies clearly show that many fatalities resulting from
24 anaphylaxis are associated with a failure to administer epinephrine, a
25 delay in the administration of epinephrine, or a failure to recognize the
26 symptoms of anaphylaxis.

27 (3) The general assembly further finds and declares that the

1 importance of managing life-threatening food allergies has been
2 recognized by the American medical association; the American academy
3 of pediatrics; the American academy of allergy, asthma, and immunology;
4 the American college of allergy, asthma, and immunology; the national
5 association of elementary school principals; the national school boards
6 association; and the national association of school nurses.

7 (4) Now, therefore, the general assembly hereby declares that the
8 state board of education and the department of public health and
9 environment should develop a policy to manage the risks posed by food
10 allergies and anaphylaxis in public schools.

11 **SECTION 2.** Part 1 of article 2 of title 22, Colorado Revised
12 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
13 read:

14 **22-2-135. Food allergy and anaphylaxis management policy -**
15 **rules.** (1) THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE
16 "COLORADO SCHOOL CHILDREN'S FOOD ALLERGY AND ANAPHYLAXIS
17 MANAGEMENT POLICY ACT".

18 (2) ON OR BEFORE JANUARY 1, 2010, THE STATE BOARD OF
19 EDUCATION, IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC HEALTH
20 AND ENVIRONMENT, SHALL PROMULGATE RULES ESTABLISHING A
21 STATEWIDE POLICY FOR THE MANAGEMENT OF FOOD ALLERGIES AND
22 ANAPHYLAXIS AMONG STUDENTS ENROLLED IN THE PUBLIC SCHOOLS IN
23 THE STATE. THE STATEWIDE POLICY SHALL INCLUDE, BUT NEED NOT BE
24 LIMITED TO, THE FOLLOWING:

25 (a) (I) A REQUIREMENT THAT, PRIOR TO THE BEGINNING OF EACH
26 SCHOOL YEAR, EACH SCHOOL DISTRICT NOTIFY A PARENT OR LEGAL
27 GUARDIAN OF EACH STUDENT ENROLLED IN A SCHOOL OF THE SCHOOL

1 DISTRICT OF THE SCHOOL DISTRICT'S POLICY CONCERNING THE
2 MANAGEMENT OF FOOD ALLERGIES AND ANAPHYLAXIS AMONG CHILDREN
3 IN SCHOOLS OF THE SCHOOL DISTRICT, WHICH POLICY SHALL BE ADOPTED
4 BY THE SCHOOL DISTRICT PURSUANT TO SECTION 22-32-139;

5 (II) A REQUIREMENT THAT, PRIOR TO THE BEGINNING OF EACH
6 SCHOOL YEAR, EACH INSTITUTE CHARTER SCHOOL NOTIFY A PARENT OR
7 LEGAL GUARDIAN OF EACH STUDENT ENROLLED IN THE INSTITUTE
8 CHARTER SCHOOL OF THE STATE CHARTER SCHOOL INSTITUTE'S POLICY
9 CONCERNING THE MANAGEMENT OF FOOD ALLERGIES AND ANAPHYLAXIS
10 AMONG CHILDREN IN INSTITUTE CHARTER SCHOOLS, WHICH POLICY SHALL
11 BE ADOPTED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO
12 SECTION 22-30.5-518;

13 (III) THE NOTICE REQUIRED BY THIS PARAGRAPH (a) SHALL
14 ENCOURAGE EACH PARENT OR LEGAL GUARDIAN OF A STUDENT WITH A
15 KNOWN FOOD ALLERGY TO USE THE STANDARD FORM SUPPLIED BY THE
16 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO
17 SECTION 25-1.5-109, C.R.S., TO PROVIDE THE FOLLOWING INFORMATION
18 TO THE STUDENT'S SCHOOL'S ADMINISTRATION AS SOON AS POSSIBLE:

19 (A) DOCUMENTATION REGARDING THE DIAGNOSIS AND HISTORY
20 OF THE STUDENT'S FOOD ALLERGY, WHICH DOCUMENTATION SHALL BE
21 SIGNED BY A PHYSICIAN;

22 (B) IDENTIFICATION OF ALL FOODS TO WHICH THE STUDENT IS
23 KNOWN TO BE ALLERGIC;

24 (C) IDENTIFICATION OF ANY MEDICATION THAT HAS BEEN
25 PRESCRIBED FOR THE STUDENT FOR THE TREATMENT OF A FOOD ALLERGY
26 OR ANAPHYLAXIS;

27 (D) ANY SPECIFIC SIGNS OR SYMPTOMS THAT MAY INDICATE THE

1 STUDENT IS HAVING AN ALLERGIC REACTION TO A FOOD;

2 (E) EMERGENCY TREATMENT PROCEDURES TO EMPLOY IN THE
3 EVENT THAT THE STUDENT SUFFERS AN ALLERGIC REACTION TO FOOD;

4 (F) AN ASSESSMENT OF THE STUDENT'S READINESS TO CARRY AND
5 POTENTIALLY SELF-ADMINISTER SELF-INJECTABLE EPINEPHRINE OR OTHER
6 MEDICATION PRESCRIBED FOR THE STUDENT IN THE EVENT THAT THE
7 STUDENT SUFFERS AN ALLERGIC REACTION TO FOOD, WHICH ASSESSMENT
8 SHALL BE SIGNED BY A PHYSICIAN AND THE STUDENT'S PARENT OR LEGAL
9 GUARDIAN; AND

10 (G) THE NAMES AND TELEPHONE NUMBERS OF PERSONS WHOM THE
11 SCHOOL SHOULD CONTACT IN THE EVENT THAT THE STUDENT SUFFERS AN
12 ALLERGIC REACTION TO FOOD.

13 (b) STRATEGIES FOR COMMUNICATION BETWEEN THE SCHOOL AND
14 EMERGENCY MEDICAL SERVICES, INCLUDING INSTRUCTIONS FOR
15 EMERGENCY MEDICAL RESPONDERS;

16 (c) STRATEGIES TO REDUCE THE RISK OF STUDENTS' EXPOSURE TO
17 AGENTS THAT MAY CAUSE ANAPHYLAXIS, INCLUDING BUT NOT LIMITED TO
18 EXPOSURE THAT MAY OCCUR IN CLASSROOMS, CAFETERIAS, AND COMMON
19 AREAS AND DURING EXTRACURRICULAR ACTIVITIES, FIELD TRIPS,
20 PROGRAMS OCCURRING BEFORE AND AFTER REGULAR SCHOOL HOURS, AND
21 OTHER SCHOOL-SPONSORED PROGRAMS;

22 (d) THE PROVISION OF EMERGENCY ANAPHYLAXIS TREATMENT
23 TRAINING FOR ALL FACULTY AND ADMINISTRATIVE STAFF TO PREPARE
24 THEM TO RESPOND APPROPRIATELY IN THE EVENT THAT A STUDENT
25 SUFFERS ANAPHYLAXIS AS A RESULT OF AN ALLERGIC REACTION TO FOOD,
26 WHICH TRAINING SHALL INCLUDE BUT NEED NOT BE LIMITED TO TRAINING
27 IN THE ADMINISTRATION OF SELF-INJECTABLE EPINEPHRINE; AND

1 (e) MEASURES TO ENSURE THE AVAILABILITY OF SELF-INJECTABLE
2 EPINEPHRINE TO FACULTY AND ADMINISTRATIVE STAFF OF THE SCHOOL IN
3 THE EVENT THAT A STUDENT SUFFERS ANAPHYLAXIS AND REQUIRES
4 EMERGENCY MEDICAL TREATMENT.

5 **SECTION 3.** 22-30.5-505, Colorado Revised Statutes, is
6 amended BY THE ADDITION OF A NEW SUBSECTION to read:

7 **22-30.5-505. State charter school institute - institute board -**
8 **appointment - powers and duties - rules.** (14) PURSUANT TO SECTION
9 22-30.5-518, THE INSTITUTE SHALL ADOPT AND IMPLEMENT A POLICY FOR
10 THE MANAGEMENT OF FOOD ALLERGIES AND ANAPHYLAXIS AMONG
11 STUDENTS ENROLLED IN INSTITUTE CHARTER SCHOOLS.

12 **SECTION 4.** Part 5 of article 30.5 of title 22, Colorado Revised
13 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
14 read:

15 **22-30.5-518. Institute charter school food allergy and**
16 **anaphylaxis management policy.** (1) ON OR BEFORE JULY 1, 2010, THE
17 STATE CHARTER SCHOOL INSTITUTE SHALL ADOPT AND IMPLEMENT A
18 POLICY FOR THE MANAGEMENT OF FOOD ALLERGIES AND ANAPHYLAXIS
19 AMONG STUDENTS ENROLLED IN INSTITUTE CHARTER SCHOOLS. THE
20 POLICY SHALL INCLUDE, AT A MINIMUM, MEASURES THAT SATISFY THE
21 STATEWIDE POLICY FOR THE MANAGEMENT OF FOOD ALLERGIES AND
22 ANAPHYLAXIS AMONG STUDENTS ENROLLED IN THE PUBLIC SCHOOLS IN
23 THE STATE, WHICH STATEWIDE POLICY IS ESTABLISHED PURSUANT TO
24 RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SECTION
25 22-2-135.

26 (2) (a) ON AND AFTER JULY 1, 2010, THE STATE CHARTER SCHOOL
27 INSTITUTE SHALL ENSURE THAT EACH INSTITUTE CHARTER SCHOOL:

1 (I) HAS AVAILABLE ON SCHOOL GROUNDS AT LEAST TWO
2 SELF-INJECTABLE EPINEPHRINE DEVICES FOR THE PURPOSE OF PROVIDING
3 EMERGENCY MEDICAL TREATMENT IN THE EVENT THAT A STUDENT OR
4 OTHER PERSON SUFFERS ANAPHYLAXIS AS A RESULT OF AN ALLERGIC
5 REACTION TO FOOD; AND

6 (II) REGULARLY CHECKS AND REPLACES THE SELF-INJECTABLE
7 EPINEPHRINE DEVICES IN ACCORDANCE WITH THEIR EXPIRATION DATES.

8 (b) THE STATE CHARTER SCHOOL INSTITUTE AND EACH INSTITUTE
9 CHARTER SCHOOL MAY SOLICIT AND ACCEPT GIFTS, GRANTS, AND
10 DONATIONS FOR THE PURPOSE OF SATISFYING THE REQUIREMENTS
11 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2).

12 **SECTION 5.** Article 32 of title 22, Colorado Revised Statutes, is
13 amended BY THE ADDITION OF A NEW SECTION to read:

14 **22-32-139. Food allergies and anaphylaxis policy required -**
15 **epipens required.** (1) ON OR BEFORE JULY 1, 2010, EACH SCHOOL
16 DISTRICT BOARD OF EDUCATION SHALL ADOPT AND IMPLEMENT A POLICY
17 FOR THE MANAGEMENT OF FOOD ALLERGIES AND ANAPHYLAXIS AMONG
18 STUDENTS ENROLLED IN THE SCHOOLS OF THE SCHOOL DISTRICT. THE
19 POLICY SHALL INCLUDE, AT A MINIMUM, MEASURES THAT SATISFY THE
20 STATEWIDE POLICY FOR THE MANAGEMENT OF FOOD ALLERGIES AND
21 ANAPHYLAXIS AMONG STUDENTS ENROLLED IN THE PUBLIC SCHOOLS IN
22 THE STATE, WHICH STATEWIDE POLICY IS ESTABLISHED PURSUANT TO
23 RULES PROMULGATED BY THE STATE BOARD OF EDUCATION PURSUANT TO
24 SECTION 22-2-135.

25 (2) (a) ON AND AFTER JULY 1, 2010, EACH SCHOOL DISTRICT SHALL
26 ENSURE THAT EACH SCHOOL OF THE SCHOOL DISTRICT:

27 (I) HAS AVAILABLE ON SCHOOL GROUNDS AT LEAST TWO

1 SELF-INJECTABLE EPINEPHRINE DEVICES FOR THE PURPOSE OF PROVIDING
2 EMERGENCY MEDICAL TREATMENT IN THE EVENT THAT A STUDENT OR
3 OTHER PERSON SUFFERS ANAPHYLAXIS AS A RESULT OF AN ALLERGIC
4 REACTION TO FOOD; AND

5 (II) REGULARLY CHECKS AND REPLACES THE SELF-INJECTABLE
6 EPINEPHRINE DEVICES IN ACCORDANCE WITH THEIR EXPIRATION DATES.

7 (b) EACH SCHOOL DISTRICT MAY SOLICIT AND ACCEPT GIFTS,
8 GRANTS, AND DONATIONS FOR THE PURPOSE OF SATISFYING THE
9 REQUIREMENTS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2).

10 **SECTION 6.** Part 1 of article 1.5 of title 25, Colorado Revised
11 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
12 read:

13 **25-1.5-109. Food allergies and anaphylaxis policy for schools**
14 **- powers and duties of department.** (1) THE DEPARTMENT HAS, IN
15 ADDITION TO ALL OTHER POWERS AND DUTIES IMPOSED UPON IT BY LAW,
16 THE POWERS AND DUTIES PROVIDED IN THIS SECTION AS FOLLOWS:

17 (a) TO CONSULT WITH THE STATE BOARD OF EDUCATION
18 CONCERNING THE ADOPTION OF A POLICY FOR THE MANAGEMENT OF FOOD
19 ALLERGIES AND ANAPHYLAXIS AMONG STUDENTS ENROLLED IN THE
20 PUBLIC SCHOOLS IN THE STATE, AS DESCRIBED IN SECTION 22-2-135,
21 C.R.S.; AND

22 (b) TO DEVELOP, MAINTAIN, AND MAKE AVAILABLE TO SCHOOL
23 DISTRICTS A STANDARD FORM TO BE USED BY SCHOOL DISTRICTS AND
24 INSTITUTE CHARTER SCHOOLS TO GATHER INFORMATION FROM PHYSICIANS
25 AND PARENTS AND GUARDIANS OF STUDENTS CONCERNING STUDENTS'
26 RISKS OF FOOD ALLERGIES AND ANAPHYLAXIS AND THE TREATMENT
27 THEREOF. THE STANDARD FORM SHALL INCLUDE, AT A MINIMUM, FIELDS

1 FOR GATHERING THE INFORMATION DESCRIBED IN SECTION 22-2-135 (2)
2 (a), C.R.S.

3 **SECTION 7. Act subject to petition - effective date.** This act
4 shall take effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly that is
6 allowed for submitting a referendum petition pursuant to article V,
7 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
8 sine die is on May 6, 2009); except that, if a referendum petition is filed
9 against this act or an item, section, or part of this act within such period,
10 then the act, item, section, or part, if approved by the people, shall take
11 effect on the date of the official declaration of the vote thereon by
12 proclamation of the governor.