

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 09-0851.01 Richard Sweetman

SENATE BILL 09-226

SENATE SPONSORSHIP

Sandoval,

HOUSE SPONSORSHIP

(None),

Senate Committees

Health and Human Services
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING POLICIES FOR THE MANAGEMENT OF FOOD ALLERGIES**
102 **AMONG SCHOOL CHILDREN, AND MAKING AN APPROPRIATION IN**
103 **CONNECTION THEREWITH.**

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

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.*

SENATE
Amended 2nd Reading
April 17, 2009

provisions for the statewide policy.

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 2002, 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,

1 nearly half of them reported that the number of children with food
2 allergies in their schools had increased during a recent five-year period;

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

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

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

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

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

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

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

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

1 (3) The general assembly further finds and declares that the
2 importance of managing life-threatening food allergies has been
3 recognized by the American medical association; the American academy
4 of pediatrics; the American academy of allergy, asthma, and immunology;
5 the American college of allergy, asthma, and immunology; the national
6 association of elementary school principals; the national school boards
7 association; and the national association of school nurses.

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

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

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

19 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
20 REQUIRES, "APPROPRIATE STAFF" MEANS EMPLOYEES OF A SCHOOL WHOM
21 THE PRINCIPAL OR EQUIVALENT EXECUTIVE IN CONSULTATION WITH THE
22 SCHOOL NURSE OF THE SCHOOL DETERMINES TO BE APPROPRIATE
23 RECIPIENTS OF EMERGENCY ANAPHYLAXIS TREATMENT TRAINING, WHICH
24 EMPLOYEES SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THE
25 FOLLOWING:

26 (a) EMPLOYEES WHO ARE MEMBERS OF A SCHOOL EMERGENCY
27 MEDICAL RESPONSE TEAM;

1 (b) EMPLOYEES WHO ARE CHARGED WITH THE SUPERVISION OF A
2 CAFETERIA OR OTHER COMMON AREA THAT IS ROUTINELY USED BY
3 STUDENTS FOR DINING DURING MEAL TIMES; AND

4 (c) TEACHERS WHO TEACH AT LEAST ONE COURSE IN WHICH A
5 STUDENT WHO IS KNOWN TO HAVE A FOOD ALLERGY IS ENROLLED.

6 (3) ON OR BEFORE JANUARY 1, 2010, THE STATE BOARD OF
7 EDUCATION, IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC HEALTH
8 AND ENVIRONMENT, SHALL PROMULGATE RULES ESTABLISHING A
9 STATEWIDE POLICY FOR THE MANAGEMENT OF FOOD ALLERGIES AND
10 ANAPHYLAXIS AMONG STUDENTS ENROLLED IN THE PUBLIC SCHOOLS IN
11 THE STATE. THE STATEWIDE POLICY SHALL INCLUDE, BUT NEED NOT BE
12 LIMITED TO, THE FOLLOWING:

13 (a) (I) A REQUIREMENT THAT, PRIOR TO THE BEGINNING OF EACH
14 SCHOOL YEAR, EACH SCHOOL DISTRICT NOTIFY A PARENT OR LEGAL
15 GUARDIAN OF EACH STUDENT ENROLLED IN A SCHOOL OF THE SCHOOL
16 DISTRICT OF THE SCHOOL DISTRICT'S POLICY CONCERNING THE
17 MANAGEMENT OF FOOD ALLERGIES AND ANAPHYLAXIS AMONG CHILDREN
18 IN SCHOOLS OF THE SCHOOL DISTRICT, WHICH POLICY SHALL BE ADOPTED
19 BY THE SCHOOL DISTRICT PURSUANT TO SECTION 22-32-139;

20 (II) A REQUIREMENT THAT, PRIOR TO THE BEGINNING OF EACH
21 SCHOOL YEAR, EACH INSTITUTE CHARTER SCHOOL NOTIFY A PARENT OR
22 LEGAL GUARDIAN OF EACH STUDENT ENROLLED IN THE INSTITUTE
23 CHARTER SCHOOL OF THE STATE CHARTER SCHOOL INSTITUTE'S POLICY
24 CONCERNING THE MANAGEMENT OF FOOD ALLERGIES AND ANAPHYLAXIS
25 AMONG CHILDREN IN INSTITUTE CHARTER SCHOOLS, WHICH POLICY SHALL
26 BE ADOPTED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO
27 SECTION 22-30.5-518;

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

7 (A) DOCUMENTATION REGARDING THE DIAGNOSIS AND HISTORY
8 OF THE STUDENT'S FOOD ALLERGY, WHICH DOCUMENTATION SHALL BE
9 SIGNED BY A PHYSICIAN;

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

12 (C) IDENTIFICATION OF ANY MEDICATION THAT HAS BEEN
13 PRESCRIBED FOR THE STUDENT FOR THE TREATMENT OF A FOOD ALLERGY
14 OR ANAPHYLAXIS;

15 (D) ANY SPECIFIC SIGNS OR SYMPTOMS THAT MAY INDICATE THE
16 STUDENT IS HAVING AN ALLERGIC REACTION TO A FOOD;

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

19 (F) THE NAMES AND TELEPHONE NUMBERS OF PERSONS WHOM THE
20 SCHOOL SHOULD CONTACT IN ADDITION TO EMERGENCY MEDICAL
21 PERSONNEL IN THE EVENT THAT THE STUDENT SUFFERS AN ALLERGIC
22 REACTION TO FOOD; AND

23 (G) AN ASSESSMENT OF THE STUDENT'S READINESS TO CARRY AND
24 POTENTIALLY SELF-ADMINISTER SELF-INJECTABLE EPINEPHRINE OR OTHER
25 MEDICATION PRESCRIBED FOR THE STUDENT IN THE EVENT THAT THE
26 STUDENT SUFFERS AN ALLERGIC REACTION TO FOOD, WHICH ASSESSMENT
27 SHALL BE SIGNED BY A PHYSICIAN AND THE STUDENT'S PARENT OR LEGAL

1 GUARDIAN. A WRITTEN MEDICAL AUTHORIZATION SUBMITTED TO THE
2 SCHOOL'S ADMINISTRATION BY THE STUDENT'S PARENT OR LEGAL
3 GUARDIAN PURSUANT TO SECTION 22-1-119.5 (2) (b) (IV) (A) SHALL
4 SUFFICE FOR THE PURPOSES OF THIS SUB-SUBPARAGRAPH (G):

5 (IV) THE NOTICE REQUIRED BY THIS PARAGRAPH (a) SHALL
6 INCLUDE LANGUAGE THAT ENCOURAGES PARENTS AND LEGAL GUARDIANS
7 OF STUDENTS FOR WHOM MEDICATION HAS BEEN PRESCRIBED FOR
8 TREATMENT OF A FOOD ALLERGY OR ANAPHYLAXIS TO GIVE TO THE
9 SCHOOL NURSE OR OTHER ADMINISTRATOR OF THE STUDENT'S SCHOOL A
10 SUPPLY OF THE MEDICATION UNLESS THE STUDENT HAS AN APPROVED
11 TREATMENT PLAN PURSUANT TO SECTION 22-1-119.5 THAT AUTHORIZES
12 THE STUDENT TO SELF-ADMINISTER THE MEDICATION.

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 APPROPRIATE STAFF TO PREPARE THEM TO RESPOND
24 APPROPRIATELY IN THE EVENT THAT A STUDENT SUFFERS ANAPHYLAXIS AS
25 A RESULT OF AN ALLERGIC REACTION TO FOOD, WHICH TRAINING SHALL
26 INCLUDE BUT NEED NOT BE LIMITED TO TRAINING IN THE ADMINISTRATION
27 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.** == 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 ==
27 ==

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

3 **22-32-139. Food allergies and anaphylaxis policy required -**
4 **epipens required.** ===== ON OR BEFORE JULY 1, 2010, EACH SCHOOL
5 DISTRICT BOARD OF EDUCATION SHALL ADOPT AND IMPLEMENT A POLICY
6 FOR THE MANAGEMENT OF FOOD ALLERGIES AND ANAPHYLAXIS AMONG
7 STUDENTS ENROLLED IN THE SCHOOLS OF THE SCHOOL DISTRICT. THE
8 POLICY SHALL INCLUDE, AT A MINIMUM, MEASURES THAT SATISFY THE
9 STATEWIDE POLICY FOR THE MANAGEMENT OF FOOD ALLERGIES AND
10 ANAPHYLAXIS AMONG STUDENTS ENROLLED IN THE PUBLIC SCHOOLS IN
11 THE STATE, WHICH STATEWIDE POLICY IS ESTABLISHED PURSUANT TO
12 RULES PROMULGATED BY THE STATE BOARD OF EDUCATION PURSUANT TO
13 SECTION 22-2-135.

14 =====

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

18 **25-1.5-109. Food allergies and anaphylaxis policy for schools**
19 **- powers and duties of department.** (1) THE DEPARTMENT HAS, IN
20 ADDITION TO ALL OTHER POWERS AND DUTIES IMPOSED UPON IT BY LAW,
21 THE POWERS AND DUTIES PROVIDED IN THIS SECTION AS FOLLOWS:

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

27 (b) TO DEVELOP, MAINTAIN, AND MAKE AVAILABLE TO SCHOOL

1 DISTRICTS A STANDARD FORM TO BE USED BY SCHOOL DISTRICTS AND
2 INSTITUTE CHARTER SCHOOLS TO GATHER INFORMATION FROM PHYSICIANS
3 AND PARENTS AND GUARDIANS OF STUDENTS CONCERNING STUDENTS'
4 RISKS OF FOOD ALLERGIES AND ANAPHYLAXIS AND THE TREATMENT
5 THEREOF. THE STANDARD FORM SHALL INCLUDE, AT A MINIMUM, FIELDS
6 FOR GATHERING THE INFORMATION DESCRIBED IN SECTION 22-2-135(3)(a)
7 (III), C.R.S. ___

8 **SECTION 7. Appropriation.** In addition to any other
9 appropriation, there is hereby appropriated, out of any moneys in the
10 general fund not otherwise appropriated, to the department of education,
11 assistance to public schools, grant programs, distributions, and other
12 assistance, health and nutrition, federal nutrition programs, for the fiscal
13 year beginning July 1, 2009, the sum of one thousand nine hundred
14 fifty-one dollars (\$1,951), or so much thereof as may be necessary, for the
15 implementation of this act.

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