

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 09-0851.01 Richard Sweetman

**SENATE BILL 09-226**

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**SENATE SPONSORSHIP**

**Sandoval,**

**HOUSE SPONSORSHIP**

**(None),**

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**Senate Committees**

Health and Human Services  
Appropriations

**House Committees**

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**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.**

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**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.*

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.

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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 (b) STRATEGIES FOR COMMUNICATION BETWEEN THE SCHOOL AND  
6 EMERGENCY MEDICAL SERVICES, INCLUDING INSTRUCTIONS FOR  
7 EMERGENCY MEDICAL RESPONDERS;

8 (c) STRATEGIES TO REDUCE THE RISK OF STUDENTS' EXPOSURE TO  
9 AGENTS THAT MAY CAUSE ANAPHYLAXIS, INCLUDING BUT NOT LIMITED TO  
10 EXPOSURE THAT MAY OCCUR IN CLASSROOMS, CAFETERIAS, AND COMMON  
11 AREAS AND DURING EXTRACURRICULAR ACTIVITIES, FIELD TRIPS,  
12 PROGRAMS OCCURRING BEFORE AND AFTER REGULAR SCHOOL HOURS, AND  
13 OTHER SCHOOL-SPONSORED PROGRAMS;

14 (d) THE PROVISION OF EMERGENCY ANAPHYLAXIS TREATMENT  
15 TRAINING FOR APPROPRIATE STAFF TO PREPARE THEM TO RESPOND  
16 APPROPRIATELY IN THE EVENT THAT A STUDENT SUFFERS ANAPHYLAXIS AS  
17 A RESULT OF AN ALLERGIC REACTION TO FOOD, WHICH TRAINING SHALL  
18 INCLUDE BUT NEED NOT BE LIMITED TO TRAINING IN THE ADMINISTRATION  
19 OF SELF-INJECTABLE EPINEPHRINE; AND

20 (e) MEASURES TO ENSURE THE AVAILABILITY OF SELF-INJECTABLE  
21 EPINEPHRINE TO FACULTY AND ADMINISTRATIVE STAFF OF THE SCHOOL IN  
22 THE EVENT THAT A STUDENT SUFFERS ANAPHYLAXIS AND REQUIRES  
23 EMERGENCY MEDICAL TREATMENT.

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

26 **22-30.5-505. State charter school institute - institute board -**  
27 **appointment - powers and duties - rules.** (14) PURSUANT TO SECTION

1 22-30.5-518, THE INSTITUTE SHALL ADOPT AND IMPLEMENT A POLICY FOR  
2 THE MANAGEMENT OF FOOD ALLERGIES AND ANAPHYLAXIS AMONG  
3 STUDENTS ENROLLED IN INSTITUTE CHARTER SCHOOLS.

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

7 **22-30.5-518. InSTITUTE charter school food allergy and**  
8 **anaphylaxis management policy.** == ON OR BEFORE JULY 1, 2010, THE  
9 STATE CHARTER SCHOOL INSTITUTE SHALL ADOPT AND IMPLEMENT A  
10 POLICY FOR THE MANAGEMENT OF FOOD ALLERGIES AND ANAPHYLAXIS  
11 AMONG STUDENTS ENROLLED IN INSTITUTE CHARTER SCHOOLS. THE  
12 POLICY SHALL INCLUDE, AT A MINIMUM, MEASURES THAT SATISFY THE  
13 STATEWIDE POLICY FOR THE MANAGEMENT OF FOOD ALLERGIES AND  
14 ANAPHYLAXIS AMONG STUDENTS ENROLLED IN THE PUBLIC SCHOOLS IN  
15 THE STATE, WHICH STATEWIDE POLICY IS ESTABLISHED PURSUANT TO  
16 RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SECTION  
17 22-2-135.

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

22 **22-32-139. Food allergies and anaphylaxis policy required -**  
23 **epipens required.** == ON OR BEFORE JULY 1, 2010, EACH SCHOOL  
24 DISTRICT BOARD OF EDUCATION SHALL ADOPT AND IMPLEMENT A POLICY  
25 FOR THE MANAGEMENT OF FOOD ALLERGIES AND ANAPHYLAXIS AMONG  
26 STUDENTS ENROLLED IN THE SCHOOLS OF THE SCHOOL DISTRICT. THE  
27 POLICY SHALL INCLUDE, AT A MINIMUM, MEASURES THAT SATISFY THE



1 STATEWIDE POLICY FOR THE MANAGEMENT OF FOOD ALLERGIES AND  
2 ANAPHYLAXIS AMONG STUDENTS ENROLLED IN THE PUBLIC SCHOOLS IN  
3 THE STATE, WHICH STATEWIDE POLICY IS ESTABLISHED PURSUANT TO  
4 RULES PROMULGATED BY THE STATE BOARD OF EDUCATION PURSUANT TO  
5 SECTION 22-2-135.

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

10 **25-1.5-109. Food allergies and anaphylaxis policy for schools**  
11 **- powers and duties of department.** (1) THE DEPARTMENT HAS, IN  
12 ADDITION TO ALL OTHER POWERS AND DUTIES IMPOSED UPON IT BY LAW,  
13 THE POWERS AND DUTIES PROVIDED IN THIS SECTION AS FOLLOWS:

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

19 (b) TO DEVELOP, MAINTAIN, AND MAKE AVAILABLE TO SCHOOL  
20 DISTRICTS A STANDARD FORM TO BE USED BY SCHOOL DISTRICTS AND  
21 INSTITUTE CHARTER SCHOOLS TO GATHER INFORMATION FROM PHYSICIANS  
22 AND PARENTS AND GUARDIANS OF STUDENTS CONCERNING STUDENTS'  
23 RISKS OF FOOD ALLERGIES AND ANAPHYLAXIS AND THE TREATMENT  
24 THEREOF. THE STANDARD FORM SHALL INCLUDE, AT A MINIMUM, FIELDS  
25 FOR GATHERING THE INFORMATION DESCRIBED IN SECTION 22-2-135(3)(a)  
26 (II), C.R.S.

27 **SECTION 7. Appropriation.** In addition to any other

1 appropriation, there is hereby appropriated, out of any moneys in the  
2 general fund not otherwise appropriated, to the department of education,  
3 assistance to public schools, grant programs, distributions, and other  
4 assistance, health and nutrition, federal nutrition programs, for the fiscal  
5 year beginning July 1, 2009, the sum of one thousand nine hundred  
6 fifty-one dollars (\$1,951), or so much thereof as may be necessary, for the  
7 implementation of this act.

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