

# ASSEMBLY, No. 304

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

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**District 40 (Bergen, Essex, Morris and Passaic)**

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**SYNOPSIS**

Requires schools to maintain supply of epinephrine and permit administration of epinephrine to any student having anaphylactic reaction.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



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1 AN ACT concerning the emergency administration of epinephrine to  
2 students for anaphylaxis and amending P.L.1997, c.368 and  
3 P.L.2007, c.57.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. Section 1 of P.L.1997, c.368 (C.18A:40-12.5) is amended to  
9 read as follows:

10 1. Each board of education or chief school administrator of a  
11 nonpublic school shall develop a policy in accordance with the  
12 guidelines established by the Department of Education pursuant to  
13 section 4 of P.L.2007, c.57 (C.18A:40-12.6a) for the emergency  
14 administration of epinephrine via a pre-filled auto-injector  
15 mechanism to a pupil for anaphylaxis provided that:

16 a. the parents or guardians of the pupil provide to the board of  
17 education or chief school administrator of a nonpublic school  
18 written authorization for the administration of the epinephrine;

19 b. the parents or guardians of the pupil provide to the board of  
20 education or chief school administrator of a nonpublic school  
21 written orders from the physician or advanced practice nurse that  
22 the pupil requires the administration of epinephrine for anaphylaxis;

23 c. the board or chief school administrator of a nonpublic school  
24 informs the parents or guardians of the pupil in writing that the  
25 district and its employees or agents or the nonpublic school and its  
26 employees or agents shall have no liability as a result of any injury  
27 arising from the administration of the epinephrine via a pre-filled  
28 auto-injector mechanism;

29 d. the parents or guardians of the pupil sign a statement  
30 acknowledging their understanding that the district or the nonpublic  
31 school shall have no liability as a result of any injury arising from  
32 the administration of the epinephrine via a pre-filled auto-injector  
33 mechanism to the pupil and that the parents or guardians shall  
34 indemnify and hold harmless the district and its employees or  
35 agents or the nonpublic school and its employees or agents against  
36 any claims arising out of the administration of the epinephrine via a  
37 pre-filled auto-injector mechanism; and

38 e. the permission is effective for the school year for which it is  
39 granted and is renewed for each subsequent school year upon  
40 fulfillment of the requirements in subsections a. through d. of this  
41 section.

42 The policy developed by a board of education or chief school  
43 administrator of a nonpublic school shall require:

44 (1) the placement of a pupil's prescribed epinephrine in a secure  
45 but unlocked location easily accessible by the school nurse and

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 designees to ensure prompt availability in the event of an allergic  
2 emergency at school or at a school-sponsored function. The  
3 location of the epinephrine shall be indicated on the pupil's  
4 emergency care plan. Back-up epinephrine shall also be available  
5 at the school if needed;

6 (2) the school nurse or designee to be promptly available on site  
7 at the school and school-sponsored functions in the event of an  
8 allergic reaction; and

9 (3) the transportation of the pupil to a hospital emergency room  
10 by emergency services personnel after the administration of  
11 epinephrine, even if the pupil's symptoms appear to have resolved.

12 f. The policy developed by a board of education or chief  
13 school administrator of a nonpublic school shall also:

14 (1) permit the school nurse or trained designee to administer  
15 epinephrine via a pre-filled auto-injector mechanism to any pupil  
16 whose parent or guardian has not met the requirements of  
17 subsections a., b., and d. of this section and has not received the  
18 notice required pursuant to subsection c. of this section when the  
19 nurse or designee in good faith believes that the pupil is having an  
20 anaphylactic reaction; and

21 (2) require each public and nonpublic school to maintain in a  
22 secure but unlocked and easily accessible location a supply of  
23 epinephrine auto-injectors that is prescribed under a standing  
24 protocol from a licensed physician, and is accessible to the school  
25 nurse and trained designees for administration to a pupil having an  
26 anaphylactic reaction.

27 (cf: P.L.2007, c.57, s.2)

28

29 2. Section 2 of P.L.1997, c.368 (C.18A:40-12.6) is amended to  
30 read as follows:

31 2. The policy for the administration of medication to a pupil  
32 shall provide that the school nurse shall have the primary  
33 responsibility for the administration of the epinephrine. The school  
34 nurse shall designate, in consultation with the board of education, or  
35 chief school administrator of a nonpublic school additional  
36 employees of the school district or nonpublic school who volunteer  
37 to administer epinephrine via a pre-filled auto-injector mechanism  
38 to a pupil for anaphylaxis when the nurse is not physically present  
39 at the scene. **【The】** Except as otherwise provided pursuant to  
40 subsection f. of section 1 of P.L.1997, c. 368 (C.18A:40-12.5), the  
41 school nurse shall determine that:

42 a. the designees have been properly trained in the  
43 administration of the epinephrine via a pre-filled auto-injector  
44 mechanism using standardized training protocols established by the  
45 Department of Education in consultation with the Department of  
46 Health and Senior Services;

- 1       b. the parents or guardians of the pupil consent in writing to the  
2 administration of the epinephrine via a pre-filled auto-injector  
3 mechanism by the designees;
- 4       c. the board or chief school administrator of a nonpublic school  
5 informs the parents or guardians of the pupil in writing that the  
6 district and its employees or agents or the nonpublic school and its  
7 employees and agents shall have no liability as a result of any injury  
8 arising from the administration of the epinephrine to the pupil;
- 9       d. the parents or guardians of the pupil sign a statement  
10 acknowledging their understanding that the district or nonpublic  
11 school shall have no liability as a result of any injury arising from  
12 the administration of the epinephrine via a pre-filled auto-injector  
13 mechanism to the pupil and that the parents or guardians shall  
14 indemnify and hold harmless the district and its employees or  
15 agents against any claims arising out of the administration of the  
16 epinephrine via a pre-filled auto-injector mechanism to the pupil;  
17 and
- 18       e. the permission is effective for the school year for which it is  
19 granted and is renewed for each subsequent school year upon  
20 fulfillment of the requirements in subsections a. through d. of this  
21 section.

22       The Department of Education, in consultation with the  
23 Department of Health and Senior Services, shall require trained  
24 designees for students enrolled in a school who may require the  
25 emergency administration of epinephrine for anaphylaxis when the  
26 school nurse is not available.

27       Nothing in this section shall be construed to prohibit the  
28 emergency administration of epinephrine via a pre-filled auto-  
29 injector mechanism to a pupil for anaphylaxis by the school nurse  
30 or other employees designated pursuant to this section when the  
31 pupil is authorized to self-administer epinephrine pursuant to  
32 section 1 of P.L.1993, c.308 (C.18A:40-12.3), or when there is a  
33 coexisting diagnosis of asthma, or when a prescription is received  
34 from a licensed health care professional for epinephrine coupled  
35 with another form of medication, or when the epinephrine is  
36 administered pursuant to subsection f. of section 1 of P.L.1997,  
37 c.368 (C.18A:40-12.5).  
38 (cf: P.L.2007, c.57, s.3)

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40       3. Section 7 of P.L.2007, c.57 (C.18A:40-12.6d) is amended to  
41 read as follows:

42       7. No school employee, including a school nurse, or any other  
43 officer or agent of a board of education or nonpublic school, or a  
44 physician providing a prescription under a standing protocol for  
45 school epinephrine pursuant to subsection f. of section 1 of P.L.  
46 1997, c. 368 (C.18A:40-12.5), shall be held liable for any good faith  
47 act or omission consistent with the provisions of P.L.1997, c.368

1 (C.18A:40-12.5 et seq.), nor shall an action before the New Jersey  
2 State Board of Nursing lie against a school nurse for any such  
3 action taken by a person designated in good faith by the school  
4 nurse pursuant to section 2 of P.L.1997, c.368 (C.18A:40-12.6).  
5 Good faith shall not include willful misconduct, gross negligence or  
6 recklessness.

7 (cf: P.L.2007, c.57, s.7)

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9 4. This act shall take effect immediately.

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STATEMENT

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14 Current law requires boards of education and nonpublic school  
15 administrators to develop policies concerning the emergency  
16 administration of epinephrine to a student provided that the  
17 student's parent or guardian provides written authorization for  
18 administration of the epinephrine and written orders from a  
19 physician that the student requires epinephrine for anaphylaxis.  
20 This bill would amend the law concerning the emergency  
21 administration of epinephrine to require that school nurses and  
22 trained designees be permitted to administer epinephrine to any  
23 student whose parent has not met the prior authorization and  
24 physician order requirements when the nurse or designee in good  
25 faith believes that the student is having an anaphylactic reaction.  
26 The bill also would require that public and nonpublic schools  
27 maintain in a secure but unlocked and easily accessible location a  
28 supply of epinephrine auto-injectors that is prescribed under a  
29 standing protocol from a licensed physician and is accessible to the  
30 school nurse and trained designees for administration to a pupil  
31 having an anaphylactic reaction. The bill also amends the law  
32 providing immunity from liability to school employees and agents  
33 for good faith acts or omissions concerning the emergency  
34 administration of epinephrine to specifically include a physician  
35 providing a prescription under a standing protocol for school  
36 epinephrine.

37 A growing number of children in the United States have food  
38 allergies, which can lead to severe and potentially life-threatening  
39 allergic reactions. Receiving an immediate dose of injectable  
40 epinephrine for anaphylaxis can be a life-saving measure. A child  
41 may experience an allergic reaction for the first time while at  
42 school, in which case the child would not have a prior prescription  
43 for epinephrine on file with the school. In response to the rise in  
44 child food allergies, a number of states have enacted laws allowing  
45 schools to maintain a supply of epinephrine not prescribed to an  
46 individual student that can be used for any student in an  
47 anaphylactic emergency. Similarly, a recently introduced federal

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1 bill, the “School Access to Emergency Epinephrine Act,” would  
2 encourage states to require that their public elementary and  
3 secondary schools maintain a supply of epinephrine that can be  
4 administered to any student believed in good faith to be having an  
5 anaphylactic reaction.