

108TH CONGRESS
2D SESSION

S. 2815

To give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2004

Mr. DEWINE (for himself and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Asthmatic School-
5 children's Treatment and Health Management Act of
6 2004".

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1 (1) Asthma is a chronic condition requiring life-
2 time, ongoing medical intervention.

3 (2) In 1980, 6,700,000 Americans had asthma.

4 (3) In 2001, 20,300,000 Americans had asthma
5 and 6,300,000 children under age 18 had asthma.

6 (4) The prevalence of asthma among African-
7 American children was 40 percent greater than
8 among Caucasian children, and more than 26 per-
9 cent of all asthma deaths are in the African-Amer-
10 ican population.

11 (5) In 2000, there were 1,800,000 asthma-re-
12 lated visits to emergency departments (more than
13 728,000 of these involved children under 18 years of
14 age).

15 (6) In 2000, there were 465,000 asthma-related
16 hospitalizations (214,000 of these involved children
17 under 18 years of age).

18 (7) In 2000, 4,487 people died from asthma,
19 and of these 223 were children.

20 (8) According to the Centers for Disease Con-
21 trol and Prevention, asthma is a common cause of
22 missed school days, accounting for approximately
23 14,000,000 missed school days annually.

24 (9) According to the New England Journal of
25 Medicine, working parents of children with asthma

1 lose an estimated \$1,000,000,000 a year in produc-
2 tivity.

3 (10) At least 30 States have legislation pro-
4 tecting the rights of children to carry and self-ad-
5 minister asthma metered-dose inhalers, and at least
6 18 States expand this protection to epinephrine
7 auto-injectors.

8 (11) Tragic refusals of schools to permit stu-
9 dents to carry their inhalers and auto-injectable epi-
10 nephrine have occurred, some resulting in death and
11 spawning litigation.

12 (12) School district medication policies must be
13 developed with the safety of all students in mind.
14 The immediate and correct use of asthma inhalers
15 and auto-injectable epinephrine are necessary to
16 avoid serious respiratory complications and improve
17 health care outcomes.

18 (13) No school should interfere with the pa-
19 tient-physician relationship.

20 (14) Anaphylaxis, or anaphylactic shock, is a
21 systemic allergic reaction that can kill within min-
22 utes. Anaphylaxis occurs in some asthma patients.
23 According to the American Academy of Allergy,
24 Asthma, and Immunology, people who have experi-
25 enced symptoms of anaphylaxis previously are at

1 risk for subsequent reactions and should carry an
 2 epinephrine auto-injector with them at all times, if
 3 prescribed.

4 (15) An increasing number of students and
 5 school staff have life-threatening allergies. Exposure
 6 to the affecting allergen can trigger anaphylaxis. An-
 7 aphyllaxis requires prompt medical intervention with
 8 an injection of epinephrine.

9 **SEC. 3. PREFERENCE FOR STATES THAT ALLOW STUDENTS**
 10 **TO SELF-ADMINISTER MEDICATION TO**
 11 **TREAT ASTHMA AND ANAPHYLAXIS.**

12 (a) AMENDMENTS.—Section 399L of the Public
 13 Health Service Act (42 U.S.C. 280g) is amended—

14 (1) by redesignating subsection (d) as sub-
 15 section (e); and

16 (2) by inserting after subsection (c) the fol-
 17 lowing:

18 “(d) PREFERENCE FOR STATES THAT ALLOW STU-
 19 DENTS TO SELF-ADMINISTER MEDICATION TO TREAT
 20 ASTHMA AND ANAPHYLAXIS.—

21 “(1) PREFERENCE.—The Secretary, in award-
 22 ing any grant under this section or any other grant
 23 that is asthma-related (as determined by the Sec-
 24 retary) to a State, shall give preference to any State
 25 that satisfies the following:

1 “(A) IN GENERAL.—The State must re-
2 quire that each public elementary school and
3 secondary school in that State will grant to any
4 student in the school an authorization for the
5 self-administration of medication to treat that
6 student’s asthma or anaphylaxis, if—

7 “(i) a health care practitioner pre-
8 scribed the medication for use by the stu-
9 dent during school hours and instructed
10 the student in the correct and responsible
11 use of the medication;

12 “(ii) the student has demonstrated to
13 the health care practitioner (or such prac-
14 titioner’s designee) and the school nurse (if
15 available) the skill level necessary to use
16 the medication and any device that is nec-
17 essary to administer such medication as
18 prescribed;

19 “(iii) the health care practitioner for-
20 mulates a written treatment plan for man-
21 aging asthma or anaphylaxis episodes of
22 the student and for medication use by the
23 student during school hours; and

24 “(iv) the student’s parent or guardian
25 has completed and submitted to the school

1 any written documentation required by the
2 school, including the treatment plan for-
3 mulated under clause (iii) and other docu-
4 ments related to liability.

5 “(B) SCOPE.—An authorization granted
6 under subparagraph (A) must allow the student
7 involved to possess and use his or her medica-
8 tion—

9 “(i) while in school;

10 “(ii) while at a school-sponsored activ-
11 ity, such as a sporting event; and

12 “(iii) in transit to or from school or
13 school-sponsored activities.

14 “(C) DURATION OF AUTHORIZATION.—An
15 authorization granted under subparagraph
16 (A)—

17 “(i) must be effective only for the
18 same school and school year for which it is
19 granted; and

20 “(ii) must be renewed by the parent
21 or guardian each subsequent school year in
22 accordance with this subsection.

23 “(D) BACKUP MEDICATION.—The State
24 must require that backup medication, if pro-
25 vided by a student’s parent or guardian, be

1 kept at a student's school in a location to which
2 the student has immediate access in the event
3 of an asthma or anaphylaxis emergency.

4 “(E) MAINTENANCE OF INFORMATION.—
5 The State must require that information de-
6 scribed in clauses (iii) and (iv) of subparagraph
7 (A) be kept on file at the student's school in a
8 location easily accessible in the event of an
9 asthma or anaphylaxis emergency.

10 “(2) RULE OF CONSTRUCTION.—Nothing in
11 this subsection creates a cause of action or in any
12 other way increases or diminishes the liability of any
13 person under any other law.

14 “(3) DEFINITIONS.—For purposes of this sub-
15 section:

16 “(A) ELEMENTARY SCHOOL AND SEC-
17 ONDARY SCHOOL.—The terms ‘elementary
18 school’ and ‘secondary school’ have the mean-
19 ings given to those terms in section 9101 of the
20 Elementary and Secondary Education Act of
21 1965.

22 “(B) HEALTH CARE PRACTITIONER.—The
23 term ‘health care practitioner’ means a person
24 authorized under law to prescribe drugs subject

1 to section 503(b) of the Federal Food, Drug,
2 and Cosmetic Act.

3 “(C) MEDICATION.—The term ‘medication’
4 means a drug as that term is defined in section
5 201 of the Federal Food, Drug, and Cosmetic
6 Act and includes inhaled bronchodilators and
7 auto-injectable epinephrine.

8 “(D) SELF-ADMINISTRATION.—The term
9 ‘self-administration’ means a student’s discre-
10 tionary use of his or her prescribed asthma or
11 anaphylaxis medication, pursuant to a prescrip-
12 tion or written direction from a health care
13 practitioner.”.

14 (b) APPLICABILITY.—The amendments made by this
15 section shall apply only with respect to grants made on
16 or after the date that is 9 months after the date of the
17 enactment of this Act.

18 **SEC. 4. SENSE OF CONGRESS COMMENDING CDC FOR ITS**
19 **STRATEGIES FOR ADDRESSING ASTHMA**
20 **WITHIN A COORDINATED SCHOOL HEALTH**
21 **PROGRAM.**

22 It is the sense of Congress—

23 (1) to commend the Centers for Disease Control
24 and Prevention for identifying and creating “Strate-

1 gies for Addressing Asthma Within a Coordinated
2 School Program” for schools to address asthma; and
3 (2) to encourage all schools to review these
4 strategies and adopt policies that will best meet the
5 needs of their student population.

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