

108<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 2023

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## AN ACT

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.



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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Asthmatic School-  
3 children’s Treatment and Health Management Act of  
4 2004”.

5 **SEC. 2. FINDINGS.**

6 The Congress finds the following:

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

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

10 (3) In 2001, 20,300,000 Americans had asth-  
11 ma; 6,300,000 children under age 18 had asthma.

12 (4) The prevalence of asthma among African-  
13 American children was 40 percent greater than  
14 among Caucasian children, and more than 26 per-  
15 cent of all asthma deaths are in the African-Amer-  
16 ican population.

17 (5) In 2000, there were 1,800,000 asthma-re-  
18 lated visits to emergency departments (more than  
19 728,000 of these involved children under 18 years of  
20 age).

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

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

1           (8) According to the Centers for Disease Con-  
2           trol and Prevention, asthma is a common cause of  
3           missed school days, accounting for approximately  
4           14,000,000 missed school days annually.

5           (9) According to the New England Journal of  
6           Medicine, working parents of children with asthma  
7           lose an estimated \$1,000,000,000 a year in produc-  
8           tivity.

9           (10) At least 30 States have legislation pro-  
10          tecting the rights of children to carry and self-ad-  
11          minister asthma metered-dose inhalers, and at least  
12          18 States expand this protection to epinephrine  
13          auto-injectors.

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

18          (12) School district medication policies must be  
19          developed with the safety of all students in mind.  
20          The immediate and correct use of asthma inhalers  
21          and auto-injectable epinephrine are necessary to  
22          avoid serious respiratory complications and improve  
23          health care outcomes.

24          (13) No school should interfere with the pa-  
25          tient-physician relationship.

1           (14) Anaphylaxis, or anaphylactic shock, is a  
2 systemic allergic reaction that can kill within min-  
3 utes. Anaphylaxis occurs in some asthma patients.  
4 According to the American Academy of Allergy,  
5 Asthma, and Immunology, people who have experi-  
6 enced symptoms of anaphylaxis previously are at  
7 risk for subsequent reactions and should carry an  
8 epinephrine auto-injector with them at all times, if  
9 prescribed.

10           (15) An increasing number of students and  
11 school staff have life-threatening allergies. Exposure  
12 to the affecting allergen can trigger anaphylaxis. An-  
13 aphyllaxis requires prompt medical intervention with  
14 an injection of epinephrine.

15 **SEC. 3. PREFERENCE FOR STATES THAT ALLOW STUDENTS**  
16 **TO SELF-ADMINISTER MEDICATION TO**  
17 **TREAT ASTHMA AND ANAPHYLAXIS.**

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

20           (1) by redesignating subsection (d) as sub-  
21 section (e); and

22           (2) by inserting after subsection (c) the fol-  
23 lowing:

1       “(d) PREFERENCE FOR STATES THAT ALLOW STU-  
2 DENTS TO SELF-ADMINISTER MEDICATION TO TREAT  
3 ASTHMA AND ANAPHYLAXIS.—

4           “(1) PREFERENCE.—The Secretary, in making  
5 any grant under this section or any other grant that  
6 is asthma-related (as determined by the Secretary)  
7 to a State, shall give preference to any State that  
8 satisfies the following:

9           “(A) IN GENERAL.—The State must re-  
10 quire that each public elementary school and  
11 secondary school in that State will grant to any  
12 student in the school an authorization for the  
13 self-administration of medication to treat that  
14 student’s asthma or anaphylaxis, if—

15           “(i) a health care practitioner pre-  
16 scribed the medication for use by the stu-  
17 dent during school hours and instructed  
18 the student in the correct and responsible  
19 use of the medication;

20           “(ii) the student has demonstrated to  
21 the health care practitioner (or such prac-  
22 titioner’s designee) and the school nurse (if  
23 available) the skill level necessary to use  
24 the medication and any device that is nec-

1           essary to administer such medication as  
2           prescribed;

3           “(iii) the health care practitioner for-  
4           mulates a written treatment plan for man-  
5           aging asthma or anaphylaxis episodes of  
6           the student and for medication use by the  
7           student during school hours; and

8           “(iv) the student’s parent or guardian  
9           has completed and submitted to the school  
10          any written documentation required by the  
11          school, including the treatment plan for-  
12          mulated under clause (iii) and other docu-  
13          ments related to liability.

14          “(B) SCOPE.—An authorization granted  
15          under subparagraph (A) must allow the student  
16          involved to possess and use his or her  
17          medication—

18                 “(i) while in school;

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

21                 “(iii) in transit to or from school or  
22                 school-sponsored activities.

23          “(C) DURATION OF AUTHORIZATION.—An  
24          authorization granted under subparagraph  
25          (A)—

1                   “(i) must be effective only for the  
2                   same school and school year for which it is  
3                   granted; and

4                   “(ii) must be renewed by the parent  
5                   or guardian each subsequent school year in  
6                   accordance with this subsection.

7                   “(D) BACKUP MEDICATION.—The State  
8                   must require that backup medication, if pro-  
9                   vided by a student’s parent or guardian, be  
10                  kept at a student’s school in a location to which  
11                  the student has immediate access in the event  
12                  of an asthma or anaphylaxis emergency.

13                  “(E) MAINTENANCE OF INFORMATION.—  
14                  The State must require that information de-  
15                  scribed in subparagraphs (A)(iii) and (A)(iv) be  
16                  kept on file at the student’s school in a location  
17                  easily accessible in the event of an asthma or  
18                  anaphylaxis emergency.

19                  “(2) RULE OF CONSTRUCTION.—Nothing in  
20                  this subsection creates a cause of action or in any  
21                  other way increases or diminishes the liability of any  
22                  person under any other law.

23                  “(3) DEFINITIONS.—For purposes of this sub-  
24                  section:

1           “(A) The terms ‘elementary school’ and  
2           ‘secondary school’ have the meaning given to  
3           those terms in section 9101 of the Elementary  
4           and Secondary Education Act of 1965.

5           “(B) The term ‘health care practitioner’  
6           means a person authorized under law to pre-  
7           scribe drugs subject to section 503(b) of the  
8           Federal Food, Drug, and Cosmetic Act.

9           “(C) The term ‘medication’ means a drug  
10          as that term is defined in section 201 of the  
11          Federal Food, Drug, and Cosmetic Act and in-  
12          cludes inhaled bronchodilators and auto-  
13          injectable epinephrine.

14          “(D) The term ‘self-administration’ means  
15          a student’s discretionary use of his or her pre-  
16          scribed asthma or anaphylaxis medication, pur-  
17          suant to a prescription or written direction  
18          from a health care practitioner.”.

19          (b) APPLICABILITY.—The amendments made by this  
20          section shall apply only with respect to grants made on  
21          or after the date that is 9 months after the date of the  
22          enactment of this Act.

1 **SEC. 4. SENSE OF CONGRESS COMMENDING CDC FOR ITS**  
2 **STRATEGIES FOR ADDRESSING ASTHMA**  
3 **WITHIN A COORDINATED SCHOOL HEALTH**  
4 **PROGRAM.**

5 The Congress—

- 6 (1) commends the Centers for Disease Control  
7 and Prevention for identifying and creating “Strate-  
8 gies for Addressing Asthma Within a Coordinated  
9 School Program” for schools to address asthma; and  
10 (2) encourages all schools to review these strat-  
11 egies and adopt policies that will best meet the needs  
12 of their student population.

Passed the House of Representatives October 5,  
2004.

Attest:

*Clerk.*