H. R. 3627

To provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer, epinephrine at schools.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2011

Mr. Roe of Tennessee (for himself and Mr. Hoyer) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer, epinephrine at schools.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “School Access to Emergency Epinephrine Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) According to research funded by the Food Allergy Initiative and conducted by Northwestern
University and Children’s Memorial Hospital, nearly 6,000,000 children in the United States have food allergies.

(2) Anaphylaxis, or anaphylactic shock, is a systemic allergic reaction that can kill within minutes.

(3) More than 15 percent of school-aged children with food allergies have had an allergic reaction in school.

(4) Teenagers and young adults with food allergies are at the highest risk of fatal food-induced anaphylaxis.

(5) Individuals with food allergies who also have asthma may be at increased risk for severe or fatal food allergy reactions.

(6) Studies have shown that 25 percent of epinephrine administrations in schools involve individuals with a previously unknown allergy.

(7) The National Institute of Allergy and Infectious Diseases (“NIAID”) has reported that delays in the administration of epinephrine to patients in anaphylaxis can result in rapid decline and death. NIAID recommends that epinephrine be given promptly to treat anaphylaxis.
(8) Physicians can provide standing orders to furnish a school with epinephrine for injection, and several States have passed laws to authorize this practice.

(9) The American Academy of Allergy, Asthma, and Immunology recommends that epinephrine injectors should be included in all emergency medical treatment kits in schools.

(10) The American Academy of Pediatrics recommends that an anaphylaxis kit should be kept with medications in each school and made available to trained staff for administration in an emergency.

(11) According to the Food Allergy and Anaphylaxis Network, there are no contraindications to the use of epinephrine for a life-threatening reaction.

SEC. 3. PREFERENCE FOR STATES REGARDING ADMINISTRATION OF EPINEPHRINE BY SCHOOL PERSONNEL.

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

(1) in subsection (a), by redesignating the second paragraph (2) and paragraph (3) as paragraphs (3) and (4), respectively; and

(2) by striking subsection (d) and inserting the following:
“(d) Preference for States Regarding Medication To Treat Asthma and Anaphylaxis.—

“(1) Preference.—The Secretary, in making any grant under this section or any other grant that is asthma-related (as determined by the Secretary) to a State, shall give preference to any State that satisfies each of the following requirements:

“(A) Self-administration of medication.—

“(i) In general.—The State shall require that each public elementary school and secondary school in that State will grant to any student in the school an authorization for the self-administration of medication to treat that student’s asthma or anaphylaxis, if—

“(I) a health care practitioner prescribed the medication for use by the student during school hours and instructed the student in the correct and responsible use of the medication;

“(II) the student has demonstrated to the health care practitioner (or such practitioner’s designee) and the school nurse (if avail-
able) the skill level necessary to use
the medication and any device that is
necessary to administer such medica-
tion as prescribed;

“(III) the health care practi-
tioner formulates a written treatment
plan for managing asthma or anaphy-
laxis episodes of the student and for
medication use by the student during
school hours; and

“(IV) the student’s parent or
guardian has completed and sub-
mitted to the school any written docu-
mentation required by the school, in-
cluding the treatment plan formulated
under subclause (III) and other docu-
ments related to liability.

“(ii) SCOPE.—An authorization grant-
ed under clause (i) shall allow the student
involved to possess and use the student’s
medication—

“(I) while in school;

“(II) while at a school-sponsored
activity, such as a sporting event; and
“(III) in transit to or from school or school-sponsored activities.

“(iii) **Duration of Authorization.**—An authorization granted under clause (i)—

“(I) shall be effective only for the same school and school year for which it is granted; and

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

“(iv) **Backup Medication.**—The State shall require that backup medication, if provided by a student’s parent or guardian, be kept at a student’s school in a location to which the student has prompt access in the event of an asthma or anaphylaxis emergency.

“(v) **Maintenance of Information.**—The State shall require that information described in clauses (i)(III) and (i)(IV) be kept on file at the student’s school in a location easily accessible in the
event of an asthma or anaphylaxis emergency.

“(vi) **Rule of Construction.**—Nothing in this subparagraph creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

“(B) **School Personnel Administration of Epinephrine.**—

“(i) **In General.**—The State shall require that each public elementary school and secondary school in the State—

“(I) permit authorized personnel to administer epinephrine to any student believed in good faith to be having an anaphylactic reaction; and

“(II) maintain in a secure and easily accessible location a supply of epinephrine that—

“(aa) is prescribed under a standing protocol from a licensed physician; and

“(bb) is accessible to authorized personnel for administration
to a student having an anaphylactic reaction.

“(ii) LIABILITY AND STATE LAW.—

“(I) GOOD SAMARITAN LAW.—

The State shall have a State law ensuring that elementary school and secondary school employees and agents, including a physician providing a prescription for school epinephrine, will incur no liability related to the administration of epinephrine to any student believed in good faith to be having an anaphylactic reaction, except in the case of willful or wanton conduct.

“(II) STATE LAW.—Nothing in this subparagraph shall be construed to preempt State law, including any State law regarding whether students with allergy or asthma may possess and self-administer medication.

“(2) DEFINITIONS.—For purposes of this subsection:

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

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

“(C) The term ‘medication’ means a drug as that term is defined in section 201 of the Federal Food, Drug, and Cosmetic Act and includes inhaled bronchodilators and epinephrine.

“(D) The term ‘self-administration’ means a student’s discretionary use of his or her prescribed asthma or anaphylaxis medication, pursuant to a prescription or written direction from a health care practitioner.

“(E) The term ‘authorized personnel’ means the school nurse or, if the school nurse is absent, an individual who has been designated by the school nurse and has received training in the administration of epinephrine.”.