

Calendar No. 784108TH CONGRESS
2^D SESSION**S. 2815****[Report No. 108-394]**

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, Mr. KENNEDY, Mr. DURBIN, Mr. CORZINE, Mr. LAUTENBERG, and Ms. LANDRIEU) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

OCTOBER 8, 2004

Reported by Mr. GREGG, without amendment

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,*

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 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 asthma
11 and 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 award-
5 ing any grant under this section or any other grant
6 that is asthma-related (as determined by the Sec-
7 retary) to a State, shall give preference to any State
8 that 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 medica-
17 tion—

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 clauses (iii) and (iv) of subparagraph
16 (A) be kept on file at the student’s school in a
17 location easily accessible in the event of an
18 asthma or 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) ELEMENTARY SCHOOL AND SEC-
2 ONDARY SCHOOL.—The terms ‘elementary
3 school’ and ‘secondary school’ have the mean-
4 ings given to those terms in section 9101 of the
5 Elementary and Secondary Education Act of
6 1965.

7 “(B) HEALTH CARE PRACTITIONER.—The
8 term ‘health care practitioner’ means a person
9 authorized under law to prescribe drugs subject
10 to section 503(b) of the Federal Food, Drug,
11 and Cosmetic Act.

12 “(C) MEDICATION.—The term ‘medication’
13 means a drug as that term is defined in section
14 201 of the Federal Food, Drug, and Cosmetic
15 Act and includes inhaled bronchodilators and
16 auto-injectable epinephrine.

17 “(D) SELF-ADMINISTRATION.—The term
18 ‘self-administration’ means a student’s discre-
19 tionary use of his or her prescribed asthma or
20 anaphylaxis medication, pursuant to a prescrip-
21 tion or written direction from a health care
22 practitioner.”.

23 (b) APPLICABILITY.—The amendments made by this
24 section shall apply only with respect to grants made on

1 or after the date that is 9 months after the date of the
2 enactment of this Act.

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

7 It is the sense of Congress—

8 (1) to commend the Centers for Disease Control
9 and Prevention for identifying and creating “Strate-
10 gies for Addressing Asthma Within a Coordinated
11 School Program” for schools to address asthma; and

12 (2) to encourage all schools to review these
13 strategies and adopt policies that will best meet the
14 needs of their student population.

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