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SENATE BILL NO. 2393

Originated in Senate Jennifer Burgess Secretary

SENATE BILL NO. 2393

AN ACT TO AMEND SECTION 41-79-31, MISSISSIPPI CODE OF 1972, TO CLARIFY THE POLICY FOR THE POSSESSION AND SELF-ADMINISTRATION OF PRESCRIPTION ASTHMA AND/OR ANAPHYLAXIS MEDICATION BY PUBLIC AND NONPUBLIC SCHOOL STUDENTS WHILE ON SCHOOL PROPERTY OR AT SCHOOL ACTIVITIES; TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO REQUIRE ALL SCHOOL DISTRICTS TO TAKE CERTAIN ACTIONS RELATING TO CHILDREN WITH ASTHMA; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 41-79-31, Mississippi Code of 1972, is amended as follows:

41-79-31. (1) The school board of each local public school district and the governing body of each private and parochial school or school district shall permit the self-administration of asthma and anaphylaxis medication pursuant to the requirements of this section.

* * *

(2) As used in this section:

(a) "Parent" means parent or legal guardian.

(b) "Asthma and anaphylaxis medication" means inhaled bronchodilator and auto-injectable epinephrine.

(c) "Self-administration of prescription asthma and/or anaphylaxis medication" means a student's discretionary use of prescription asthma and/or anaphylaxis medication.

(3) A student with asthma and/or anaphylaxis is entitled to possess and self-administer prescription asthma and/or anaphylaxis medication while on school property, on school provided transportation, or at a school-related event or activity if:

(a) The prescription asthma and/or anaphylaxis medication has been prescribed for that student as indicated by the prescription label on the medication;

(b) The self-administration is done in compliance with the prescription or written instructions from the student's physician or other licensed health care provider; and

(c) A parent of the student provides to the school:

(i) Written authorization, signed by the parent, for the student to self-administer prescription asthma and/or anaphylaxis medication while on school property or at a school-related event or activity;

(ii) A written statement, signed by the parent, in which the parent releases the school district and its employees and agents from liability for an injury arising from the student's self-administration of prescription asthma and/or anaphylaxis medication while on school property or at a school-related event or activity unless in cases of wanton or willful misconduct;

(iii) A written statement from the student's physician or other licensed health care provider, signed by the physician or provider, that states:

1. That the student has asthma and/or anaphylaxis and is capable of self-administering the prescription asthma and/or anaphylaxis medication;

2. The name and purpose of the medication;

3. The prescribed dosage for the medication;

4. The times at which or circumstances under which the medication may be administered; and

5. The period for which the medication is prescribed.

(4) The physician's statement must be kept on file in the office of the school nurse of the school the student attends or, if there is not a school nurse, in the office of the principal of the school the student attends.

(5) If a student uses his/her medication in a manner other than prescribed, he/she may be subject to disciplinary action under the school codes. The disciplinary action shall not limit or restrict the student's immediate access to the medication.

SECTION 2. (1) The State Department of Education shall require each public school district to take the following actions relating to the management of asthma in the school setting:

(a) Recommend that each child with asthma have a current asthma action plan (AAP) on file at the child's school for the 2010-2011 school year, and require that each child with asthma have a current AAP on file at the child's school for the 2011-2012 school year and each school year thereafter, for use by the school nurse, teachers and staff. Parents and guardians of a child with asthma are to have the child's AAP developed and signed by the child's health care provider. The AAP should include the child's asthma severity classification, current asthma medication and emergency contact information. The AAP must be updated annually.

(b) Adopt an emergency protocol that includes instructions for all school staff to follow in case of a major medical emergency for asthma and all other life-threatening diseases.

(c) Fully implement Section 41-79-31, which authorizes the self-administration of asthma medication at school by students.

(d) Provide comprehensive, in-service training on asthma for teachers, assistant teachers, school nurses, administrators, and operations, maintenance and support staff. The training should include instruction on the use of AAPs, the requirements of Section 41-79-31, emergency protocols for asthma and policies in effect in that school relating to asthma.

(e) Require school nurses to attend certified asthma educators training. The cost of the training required for school nurses shall be paid by the American Lung Association.

(f) Require local school health councils to conduct a school health needs assessment that addresses and supports the implementation of the following: healthy school environment, physical activity, staff wellness, counseling/psychological services, nutrition services, family/community involvement, health education and health services. The results of the assessment must be used in the development of long-range maintenance plans that include specific indoor air quality components for each school building. The long-range maintenance plans must be included in the local school wellness policy. The long-range plans must be completed before January 1, 2012.

(g) Require local school health councils to adopt and support the implementation of a local school wellness policy that includes minimizing children's exposure to dust, gases, fumes and other pollutants that can aggravate asthma in the school setting. The policy must require the air quality and ventilation systems of schools to be assessed annually, which assessment may be accomplished with the Environmental Protection Agency's Tools for Schools Indoor Air Quality Checklist. The policy also must prohibit the use of hazardous substances such as, but not limited to, chemical cleaning products and pesticides in and around school buildings during the hours that children are present at school. The policy must require all school construction projects to implement containment procedures not later than July 1, 2012, for dusts, gases, fumes and other pollutants that trigger asthma.

(h) Implement an integrated pest management program that includes procedural guidelines for pesticide application, education of building occupants and inspection and monitoring of pesticide applications. The integrated pest management program may limit the frequency, duration and volume of pesticide application on school grounds.

(i) Require school bus operators to minimize the idling of school bus engines to prevent exposure of children and adults to diesel exhaust fumes.

(j) Require coaches and physical education teachers to participate in the American Lung Association Coaches Care/Asthma 101 training by the 2011-2012 school year, subject to funding by the school district.

(2) This section shall stand repealed on July 1, 2014.

SECTION 3. This act shall take effect and be in force from and after July 1, 2010.

PASSED BY THE SENATE
March 26, 2010

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 26, 2010

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

GOVERNOR

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