House Bill No. 2729

(By Delegate(s) Perdue, Perry, Boggs, Miley, M. Poling, Poore, Fleischauer, Marshall, Armstead, Ellington and Pasdon)

Passed April 9, 2013

In effect ninety days from passage.
Enrolled

H. B. 2729

(By Delegate(s) Perry, Perdue, Boggs, Miley, M. Poling, Poore, Fleischauer, Marshall, Armstead, Ellington and Pasdon)

[Passed April 9, 2013; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-22c, relating to allowing schools to voluntarily maintain and use epinephrine auto-injectors; providing for the administration of an auto-injector by a school nurse or other trained and authorized nonmedical school personnel for emergency care or treatment of anaphylactic reactions; allowing the issuance of standing orders and protocols by physicians to schools to obtain epinephrine auto-injectors; setting forth notice requirements; allowing students who self-inject to use the school supply of epinephrine auto-injectors; setting forth immunity from liability for school nurses and trained and authorized nonmedical school personnel; allowing county school boards to participate in free or discounted manufacturer sponsored pharmaceutical programs to obtain epinephrine auto-injectors;
providing for data collection and reporting requirements; and setting forth rule-making authority to effectuate the provisions of the section.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-5-22c, to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-22c. Providing for the maintenance and use of epinephrine auto-injectors; administration of injections; notice; indemnity from liability; rules.

(a) A public, private, parochial or denominational school located within this state may possess and maintain at the school a supply of epinephrine auto-injectors for use in emergency medical care or treatment for an anaphylactic reaction. A prior diagnosis for a student or school personnel requiring the use of epinephrine auto-injectors is not necessary to permit the school to stock epinephrine auto-injectors. Epinephrine auto-injectors shall be maintained by the school in a secure location which is only accessible by medical personnel and authorized nonmedical personnel and not by students.

(b) An allopathic physician licensed to practice pursuant to the provisions of article three, chapter thirty of this code or an osteopathic physician licensed to practice pursuant to the provisions of article fourteen, chapter thirty of this code may prescribe within the course of his or her professional practice standing orders and protocols for use when necessary by a school which wishes to maintain epinephrine auto-injector pursuant to the provisions of this section.

(c) A school nurse, as set forth in section twenty-two of this article, is authorized to administer an epinephrine auto-injector to a student or school personnel during regular school hours or
at a school function when the school nurse medically believes
the individual is experiencing an anaphylactic reaction. A school
nurse may use the school supply of epinephrine auto-injectors
for a student or school personnel authorized to self-administer
that meet the requirements of a prescription on file with the
school.

(d) Nonmedical school personnel who have been trained in
the administration of an epinephrine auto-injector and who have
been designated and authorized by the school to administer the
epinephrine auto-injector are authorized to administer an
epinephrine auto-injector to a student or school personnel during
regular school hours or at a school function when the authorized
and designated nonmedical school personnel reasonably be-
lieves, based upon their training, that the individual is experienc-
ing an anaphylactic reaction. Nonmedical school personnel may
use the school supply of epinephrine auto-injectors for a student
or school personnel authorized to self-administer that meet the
requirements of a prescription on file with the school.

(e) Prior notice to the parents of a student of the administra-
tion of the epinephrine auto-injector is not required. Immediately
following the administration of the epinephrine auto-injector, the
school shall provide notice to the parent of a student who
received an auto-injection.

(f) A school nurse or trained and authorized nonmedical
school personnel who administer an epinephrine auto-injection
to a student or to school personnel as provided in this section is
immune from liability for any civil action arising out of an act or
omission resulting from the administration of the epinephrine
auto-injection unless the act or omission was the result of the
school nurse or trained and authorized nonmedical school
personnel's gross negligence or willful misconduct.

(g) For the purposes of this section, all county boards of
education may participate in free or discounted drug programs
from pharmaceutical manufacturers to provide epinephrine auto-injectors to schools in their counties who choose to stock auto-injectors.

(h) All county boards of education are required to collect and compile aggregate data on incidents of anaphylactic reactions resulting in the administration of school maintained epinephrine auto-injectors in their county during a school year and forward the data to State Superintendent of Schools. The State Superintendent of Schools shall prepare an annual report to be presented to the Joint Committee on Government and Finance as set forth in article three, chapter four of this code, by December 31 of each year.

(i) The State Board of Education, as defined in article two of this chapter, shall consult with the State Health Officer, as defined in section four, article three, chapter thirty of this code, and promulgate rules necessary to effectuate the provisions of this section in accordance with the provisions of article three-b, chapter twenty-nine-a of this code. The rules shall provide, at a minimum, for:

(1) The criteria for selection and minimum requirements of nonmedical school personnel who may administer epinephrine auto-injectors following the necessary training;

(2) The training requirements necessary for nonmedical school personnel to be authorized to administer an epinephrine auto-injection;

(3) Training on anaphylaxis and allergy awareness for food service workers in the school system, if easily available locally;

(4) Storage requirements for maintaining the epinephrine auto-injectors within the schools;

(5) Comprehensive notice requirements to the parents of a student who was administered a school maintained epinephrine
(6) Any and all necessary documentation to be kept and maintained regarding receipt, inventory, storage and usage of all epinephrine auto-injectors;

(7) Detailed reporting requirements for county boards of education on incidents of use of school maintained epinephrine auto-injectors during a school year; and

(8) Any other requirements necessary to fully implement this section.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 20th day of April, 2013.

Governor