



1999 ASSEMBLY BILL 714

February 3, 2000 - Introduced by Representatives WASSERMAN, SYKORA, BERCEAU, BOYLE, GOETSCH, GRONEMUS, GROTHMAN, LA FAVE, J. LEHMAN, MUSSER, PETTIS, PLOUFF, RICHARDS, RYBA, SINICKI, STASKUNAS, TURNER, WAUKAU and SKINDRUD, cosponsored by Senators DARLING, WIRCH, PANZER, ROESSLER, RISSER and ROBSON. Referred to Committee on Education.

1 **AN ACT** *to amend* 118.29 (2) (a) 3., 118.29 (2) (b) and 118.29 (4); and *to create*
2 118.29 (1) (bm) and 118.29 (2) (a) 2m. of the statutes; **relating to:** use of
3 epinephrine auto-injectors on pupils by certain school employes and
4 volunteers.

Analysis by the Legislative Reference Bureau

Under current law, certain school bus operators and school employes and volunteers are immune from civil liability for administering drugs to pupils under certain circumstances. To qualify for the immunity, the school bus operator, employe or volunteer must administer the drug in compliance with the written instructions of the pupil's parent or guardian or, in the case of a prescription drug, the written instructions of a health care practitioner. In addition, the pupil's parent or guardian must consent to the administration in writing. Also, the school bus driver, employe or volunteer may not be a health care professional and his or her administration of the drug must not constitute a high degree of negligence. Finally, with respect to a school employe or volunteer, the employe's or volunteer's school administrator or principal must provide written authorization for the administration.

Under this bill, a school bus operator, employe or volunteer is also immune from civil liability for using an epinephrine auto-injector to administer epinephrine to a pupil who experiences a life-threatening allergic reaction. The bill defines "epinephrine auto-injector" as a device that is used for the automatic injection of epinephrine into the human body to prevent or treat a life-threatening allergic reaction. To qualify for the immunity, the school bus operator, employe or volunteer

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must report the allergic reaction by dialing the telephone number “911” or the telephone number for an emergency medical service provider before using the epinephrine auto-injector. Also, as with the administration of drugs under current law, the school bus driver, employe or volunteer may not be a health care professional and his or her use of the epinephrine auto-injector must not constitute a high degree of negligence. Finally, with respect to a school employe or volunteer, the employe’s or volunteer’s school administrator or principal must provide written authorization for use of the epinephrine auto-injector.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 118.29 (1) (bm) of the statutes is created to read:

2 118.29 (1) (bm) “Epinephrine auto-injector” means a device used for the
3 automatic injection of epinephrine into the human body to prevent or treat a
4 life-threatening allergic reaction.

5 **SECTION 2.** 118.29 (2) (a) 2m. of the statutes is created to read:

6 118.29 (2) (a) 2m. May use an epinephrine auto-injector to administer
7 epinephrine to any pupil who experiences a life-threatening allergic reaction if,
8 before administering the epinephrine, the school bus operator, employe or volunteer
9 reports the allergic reaction by dialing the telephone number “911” or, in an area in
10 which the telephone number “911” is not available, the telephone number for an
11 emergency medical service provider.

12 **SECTION 3.** 118.29 (2) (a) 3. of the statutes is amended to read:

13 118.29 (2) (a) 3. Is immune from civil liability for his or her acts or omissions
14 in administering a drug ~~or~~, prescription drug or epinephrine to a pupil under subd.
15 1. ~~or~~ 2. or 2m. unless the act or omission constitutes a high degree of negligence. This
16 subdivision does not apply to health care professionals.

17 **SECTION 4.** 118.29 (2) (b) of the statutes is amended to read:

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1 118.29 (2) (b) Any school district administrator, county children with
2 disabilities education board administrator, cooperative educational service agency
3 administrator, public or private school principal or private school administrator who
4 authorizes an employe or volunteer to administer a drug ~~or~~, prescription drug or
5 epinephrine to a pupil under par. (a) is immune from civil liability for the act of
6 authorization unless it constitutes a high degree of negligence.

7 **SECTION 5.** 118.29 (4) of the statutes is amended to read:

8 118.29 (4) WRITTEN POLICIES. Any school board, county children with
9 disabilities education board, cooperative educational service agency or governing
10 body of a private school whose employes or volunteers may be authorized to
11 administer drugs ~~or~~, prescription drugs or epinephrine to pupils under this section
12 shall adopt a written policy governing the administration of drugs ~~and~~, prescription
13 drugs and epinephrine to pupils. In developing the policy, the school board, board,
14 agency or governing body shall seek the assistance of one or more appropriate health
15 care professionals who are employes of the school board, board, agency or governing
16 body or are providing services or consultation under s. 121.02 (1) (g). The policy shall
17 include procedures for obtaining and filing in the school or other appropriate facility
18 the written instructions and consent required under sub. (2) (a), for the periodic
19 review of such written instructions, for the storing of drugs ~~and~~, prescription drugs
20 and epinephrine auto-injectors, for record keeping and for the appropriate
21 instruction of persons who may be authorized to administer drugs ~~or~~, prescription
22 drugs or epinephrine to pupils under this section.

23 **(END)**