

**SENATE BILL 45 (LRB -1553)**

An Act to repeal 118.29 (1) (bg), 118.29 (1) (dm), 118.29 (2) (a) 1. b. and 118.29 (6); to renumber and amend 118.29 (2) (a) 1. a.; to amend 115.001 (11), 115.88 (1m) (am), 115.88 (1m) (b), 118.29 (1) (a), 118.29 (2) (a) 2., 118.29 (2) (a) 2r., 118.29 (2) (a) 3., 118.29 (2) (b), 118.29 (4) and 118.29 (5); and to repeal and recreate 118.29 (1) (b) of the statutes; relating to: administration of medication to pupils. (FE)

**2011**

03-22. S. Introduced by Senators **Olsen** and **Harsdorf**; cosponsored by Representatives **Kestell, Kooyenga, Ziegelbauer, Thiesfeldt, Petersen, Spanbauer, Marklein, Brooks, Strachota, Kaufert, LeMahieu** and **Jacque**.

03-22. S. Read first time and referred to committee on Health ..... 192

04-06. S. Public hearing held.

04-25. S. Fiscal estimate received.

05-23. S. Senate substitute amendment 1 offered by Senator Olsen (**LRB s0097**) ..... 300

06-03. S. Senate amendment 1 to Senate substitute amendment 1 offered by Senator Olsen (**LRB a1168**) ..... 315

06-20. S. Senate amendment 2 to Senate substitute amendment 1 offered by Senator Olsen (**LRB a1326**) ..... 357

06-21. S. Executive action taken.

06-23. S. Report adoption of Senate Amendment 1 to Senate Substitute Amendment 1 recommended by committee on Health, Ayes 5, Noes 0 ..... 362

06-23. S. Report adoption of Senate Amendment 2 to Senate Substitute Amendment 1 recommended by committee on Health, Ayes 3, Noes 2 ..... 362

06-23. S. Report adoption of Senate Substitute Amendment 1 recommended by committee on Health, Ayes 5, Noes 0 ..... 362

06-23. S. Report passage as amended recommended by committee on Health, Ayes 3, Noes 2 ..... 362

06-23. S. Available for scheduling.

10-19. S. Senate amendment 3 to Senate substitute amendment 1 offered by Senator Olsen (**LRB a1616**) ..... 510

10-24. S. Placed on calendar 10-25-2011 pursuant to Senate Rule 18(1) ..... 526

10-25. S. Read a second time ..... 532

10-25. S. Senate amendment 1 to Senate substitute amendment 1 **adopted** ..... 532

10-25. S. Senate amendment 2 to Senate substitute amendment 1 **adopted** ..... 532

10-25. S. Senate amendment 3 to Senate substitute amendment 1 **adopted** ..... 532

10-25. S. Senate amendment 4 to Senate substitute amendment 1 offered by Senator Erpenbach (**LRB a1747**) ..... 532

10-25. S. Senate amendment 4 to Senate substitute amendment 1 laid on table, Ayes 17, Noes 16 ..... 532

10-25. S. Senate amendment 5 to Senate substitute amendment 1 offered by Senator Erpenbach (**LRB a1725**) ..... 533

10-25. S. Senate amendment 5 to Senate substitute amendment 1 laid on table, Ayes 19, Noes 14 ..... 533

10-25. S. Senate substitute amendment 1 **adopted** ..... 533

10-25. S. Ordered to a third reading ..... 533

10-25. S. Rules suspended ..... 533

10-25. S. Read a third time and **passed**, Ayes 18, Noes 15 ..... 533

10-27. S. Ordered immediately messaged ..... 548

10-28. A. Received from Senate ..... 626

10-28. A. Read first time and referred to calendar ..... 627

11-01. A. Rules suspended to withdraw from calendar and take up ..... 638

11-01. A. Read a second time ..... 638

11-01. A. Assembly amendment 1 offered by Representative Pope-Roberts (**LRB a1878**) ..... 638

11-01. A. Assembly amendment 1 laid on table, Ayes 60, Noes 36 ..... 638

11-01. A. Assembly amendment 2 offered by Representative Pope-Roberts (**LRB a1879**) ..... 639

11-01. A. Assembly amendment 2 withdrawn and returned to author ..... 639

11-01. A. Ordered to a third reading ..... 639

11-01. A. Rules suspended ..... 639

11-01. A. Read a third time and **concurrred in**, Ayes 63, Noes 32, Paired 2 ..... 639

11-01. A. Ordered immediately messaged ..... 639

11-02. S. Received from Assembly concurrred in.

*SB*

**2011  
ENROLLED BILL**

11en S B-45

**ADOPTED DOCUMENTS:**

Orig     Engr

S SubAmdt 1

11 s 009711 ✓✓

Amendments to above (if none, write "NONE"):

SA 1 - a 1168/1 ✓✓

SA 2 - a 1326/1 ✓✓

SA 3 - a 1616/1 ✓✓

Corrections - show date (if none, write "NONE"):

None ✓

Topic

Rel

11-2-11

Date

JR Milly

Enrolling Drafter



**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2011 SENATE BILL 45**

May 23, 2011 – Offered by Senator OLSEN.

1 AN ACT *to renumber and amend* 118.29 (6); *to amend* 115.001 (11), 115.88 (1m)  
2 (am), 115.88 (1m) (b), 118.29 (2) (a) 1. a. and 118.29 (2) (a) 2.; and *to create*  
3 118.29 (6) (a) 1., 2. and 3. of the statutes; **relating to:** administration of  
4 medication to pupils.

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***Analysis by the Legislative Reference Bureau***

2009 Wisconsin Act 160 (Act 160) made several changes to the law governing the administration of medication to pupils, all of which took effect on March 1, 2011. This substitute amendment repeals some of the changes made in Act 160 and modifies others.

***School nurses***

Under Act 160, a school nurse is defined as a registered nurse who meets the qualifications for school nurses established by the Department of Public Instruction (DPI) by rule. A school nurse need not be licensed by DPI to enjoy immunity from civil liability for referring a pupil to law enforcement authorities or to be employed for a special education program.

This substitute amendment changes the definition for school nurse to mean a registered nurse who has successfully completed a course in public health or community health. A school district may employ or contract for the services of a registered nurse who is not licensed as a school nurse; only a licensed school nurse, however, may be employed for a special education program.

***Administration of drugs to pupils***

Under Act 160, a school bus operator, and any school, county children with disabilities education board (CCDEB), or cooperative educational service agency (CESA) employee or volunteer authorized by a school district, CCDEB, or CESA administrator, or by a school principal, may administer a nonprescription drug product to a pupil in compliance with the written instructions of the pupil's parent or guardian if the pupil's parent or guardian consents and if the following conditions are satisfied: the nonprescription drug product is supplied by the pupil's parent or guardian in the original sealed manufacturer's package and the package lists the ingredients and recommended therapeutic dose.

This substitute amendment eliminates the requirement that a nonprescription drug product be supplied by the pupil's parent or guardian. However, if a nonprescription drug product is supplied by the parent or guardian, the nonprescription drug product must be in the original manufacturer's package.

Under Act 160, the persons enumerated above may administer a prescription drug to a pupil if the pupil's parent or guardian consents and all of the following conditions are met: the prescription drug is supplied by the pupil's parent or guardian in the original pharmacy-labeled package, and the package specifies the pupil's name, the prescriber's name, the name of the drug, the dose, the effective date, and the directions. This substitute amendment eliminates the requirement that the prescription drug be supplied by the pupil's parent or guardian.

Under Act 160, none of the persons enumerated above may administer prescription drugs to a pupil unless the person has received appropriate training that has been approved by DPI. This substitute amendment requires the persons enumerated above to receive training before administering a prescription drug or nonprescription drug product that must be inhaled, injected, or rectally administered.

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

- 1           **SECTION 1.** 115.001 (11) of the statutes is amended to read:
- 2           115.001 (11) SCHOOL NURSE. "School nurse" means a registered nurse licensed
- 3           under ~~s. 441.06 ch. 441~~ or in a party state, as defined in s. 441.50 (2) (j), who ~~also~~
- 4           ~~meets the qualifications for school nurses prescribed by the department by rule~~
- 5           submits evidence satisfactory to the department that he or she has successfully
- 6           completed a course, determined to be satisfactory to the department, in public health
- 7           or community health.

1       **SECTION 2.** 115.88 (1m) (am) of the statutes is amended to read:

2       115.88 (1m) (am) Subject to par. (b), if the operator of a charter school  
3 established under s. 118.40 (2r) operates a special education program and the state  
4 superintendent is satisfied that the operator of the charter school is complying with  
5 20 USC 1400 to 1491o, the state superintendent shall certify to the department of  
6 administration in favor of the operator of the charter school a sum equal to the  
7 amount that the operator of the charter school expended during the previous school  
8 year for salaries of full-time or part-time licensed teachers, licensed coordinators of  
9 special education, licensed school nurses, licensed school social workers, licensed  
10 school psychologists, licensed school counselors, paraprofessionals, licensed  
11 consulting teachers to work with any teacher of regular education programs who has  
12 a child with a disability in a class and any other personnel, as determined by the state  
13 superintendent, as costs eligible for reimbursement from the appropriation under s.  
14 20.255 (2) (b). The state superintendent may audit costs under this paragraph and  
15 adjust reimbursement to cover only actual, eligible costs.

16       **SECTION 3.** 115.88 (1m) (b) of the statutes is amended to read:

17       115.88 (1m) (b) The department shall promulgate rules establishing the  
18 percentage of the salaries of licensed school nurses, licensed school social workers,  
19 licensed school psychologists, and licensed school counselors that may be certified  
20 under pars. (a) and (am) as costs eligible for reimbursement. For each category of  
21 personnel, the department shall base the percentage on the average percentage of  
22 work time that the category spends providing services to children with disabilities,  
23 including conducting evaluations under s. 115.782.

24       **SECTION 4.** 118.29 (2) (a) 1. a. of the statutes, as affected by 2009 Wisconsin Act  
25 160, is amended to read:

1           118.29 (2) (a) 1. a. Except as provided in subd. 1. b., may administer any  
 2 nonprescription drug product which may lawfully be sold over the counter without  
 3 a prescription to a pupil in compliance with the written instructions of the pupil's  
 4 parent or guardian if the pupil's parent or guardian consents in writing. If the  
 5 nonprescription drug product is supplied by the pupil's parent or guardian, the  
 6 nonprescription drug product shall be supplied in the original manufacturer's  
 7 package, and the package ~~lists~~ must list the ingredients and recommended  
 8 therapeutic dose in a legible format.

9           **SECTION 5.** 118.29 (2) (a) 2. of the statutes, as affected by 2009 Wisconsin Act  
 10 160, is amended to read:

11           118.29 (2) (a) 2. May administer a prescription drug to a pupil in compliance  
 12 with the written instructions of a practitioner if the pupil's parent or guardian  
 13 consents in writing; the prescription drug is supplied ~~by the pupil's parent or~~  
 14 ~~guardian~~ in the original pharmacy-labeled package; and the package specifies the  
 15 name of the pupil, the name of the prescriber, the name of the prescription drug, the  
 16 dose, the effective date, and the directions in a legible format.

17           **SECTION 6.** 118.29 (6) of the statutes, as created by 2009 Wisconsin Act 160, is  
 18 renumbered 118.29 (6) (a) (intro.) and amended to read:

19           118.29 (6) (a) (intro.) Notwithstanding sub. (2) (a) 1. to 2r., and subject to par.

INS.  
SA2-1

✓  
✓  
20

20           ~~(b)~~ no school bus driver, employee, or volunteer may administer ~~a~~ any of the  
 21 following nonprescription drug ~~product~~ products or prescription ~~drug under sub. (2)~~  
 22 ~~(a) 1. or 2., use an epinephrine auto-injector under sub. (2) (a) 2m., or administer~~  
 23 ~~glucagon under sub. (2) (a) 2r.~~ drugs unless he or she has received training, approved  
 24 by the department, in administering these nonprescription drug products and  
 25 prescription drugs.:

INSERT SA2-2

INS.  
SA3-1

1 (b) This subsection does not apply to health care professionals.

2 SECTION 7. 118.29 (6) (a) 1., 2. and 3. of the statutes are created to read:

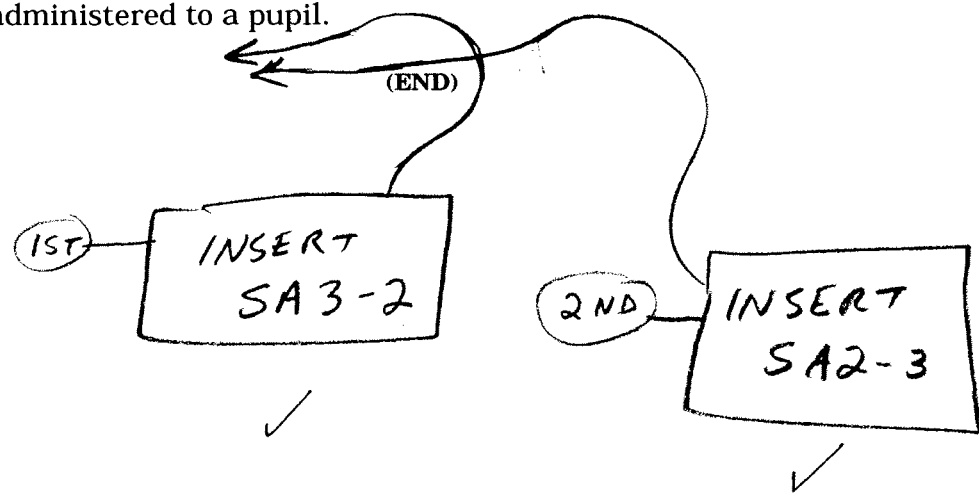
3 118.29 (6) (a) 1. A nonprescription drug product or prescription drug product  
4 that must be injected into a pupil.

5 2. A nonprescription drug product or prescription drug product that must be  
6 inhaled by a pupil.

7 3. A nonprescription drug product or prescription drug product that must be  
8 rectally administered to a pupil.

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State of Wisconsin  
2011 - 2012 LEGISLATURE



LRBa1168/1  
TKK:cjs:rs

SENATE AMENDMENT 1,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 2011 SENATE BILL 45

June 3, 2011 - Offered by Senator OLSEN.

1 At the locations indicated, amend the substitute amendment as follows:

2 ✓ 1. Page 3, line 1: delete lines 1 to 23. ✓✓✓

3 (END)





SENATE AMENDMENT 2,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 2011 SENATE BILL 45

June 20, 2011 - Offered by Senator OLSEN.

1

At the locations indicated, amend the substitute amendment as follows:

2

1. Page 4, line 19: delete "par." and substitute "pars.".

SA 2-1

3

2. Page 4, line 20: after "(b)" insert "and (c)".

SA 2-2

4

3. Page 5, line 8: after that line insert:

5

SECTION 7m. 118.29 (6) (c) of the statutes is created to read:

6

118.29 (6) (c) The training required under par. (a) need not be approved by the department when the training is completed by a school bus driver that transports only pupils enrolled in a private school, an employee of a private school, or a volunteer in or for a private school."

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(END)

SA 2-3



**SENATE AMENDMENT 3,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 2011 SENATE BILL 45**

October 19, 2011 – Offered by Senator OLSEN.

SA 3-1

1 At the locations indicated, amend the substitute amendment as follows:

2 *WV* 1. Page 5, line 2: delete “2. and 3.” and substitute “2., 3., 4., 5. and 6.”

3 *WV* 2. Page 5, line 8: after that line insert:

4 “4. A nonprescription drug product or prescription drug product that must be  
5 administered into a nasogastric tube.

6 5. A nonprescription drug product or prescription drug product that must be  
7 administered into a gastrostomy tube.

8 6. A nonprescription drug product or prescription drug product that must be  
9 administered into a jejunostomy tube.”

10

(END)

SA 3-2