

1 **AMENDMENTS TO EMERGENCY INJECTION**
2 **FOR ANAPHYLACTIC REACTION ACT**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Todd E. Kiser**

6 Senate Sponsor: Margaret Dayton

7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions of the Emergency Injection for Anaphylactic Reaction Act.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ defines terms;

14 ▶ provides that a school, school board, or school official of a primary or secondary
15 school may not prohibit or dissuade a teacher ~~H→~~ **or other school employee** ~~←H~~ from receiving
15a training to administer,

16 possessing, storing, or administering an epinephrine auto-injector;

17 ▶ requires each primary or secondary school in the state to make an emergency
18 epinephrine auto-injector available to any teacher ~~H→~~ **or other school employee who is** ~~←H~~
18a employed at the school ~~H→~~ **[who] and** ~~←H~~ is

19 qualified to administer an epinephrine auto-injector;

20 ▶ requires each primary and secondary school to make training available, regarding
21 the storage and use of an epinephrine auto-injector, to a teacher ~~H→~~ **or other school employee** ~~←H~~
21a who volunteers to

22 take the training; and

23 ▶ makes technical changes.

24 **Monies Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **26-41-102**, as last amended by Laws of Utah 2007, Chapter 37

31 **26-41-103**, as last amended by Laws of Utah 2007, Chapter 37

32 **26-41-104**, as last amended by Laws of Utah 2007, Chapter 37

33 **26-41-105**, as last amended by Laws of Utah 2007, Chapter 37

34 **26-41-106**, as enacted by Laws of Utah 1998, Chapter 17



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **26-41-102** is amended to read:

38 **26-41-102. Definitions.**

39 As used in this chapter:

40 (1) "Anaphylaxis" means a potentially life-threatening hypersensitivity to a substance.

41 (a) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty
42 breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

43 (b) Causes of anaphylaxis may include insect sting, food allergy, drug reaction, and
44 exercise.

45 [~~(2) "Designated person" means a person:]~~

46 [~~(a) 18 years of age or older; and~~]

47 [~~(b) who has successfully completed the training program established in Section~~
48 ~~26-41-104.]~~

49 [~~(3)~~] (2) "Epinephrine auto-injector" means a disposable drug delivery system with a
50 spring-activated concealed needle that is designed for emergency administration of epinephrine
51 to provide rapid, convenient first-aid for persons suffering a potentially fatal anaphylactic
52 reaction.

53 (3) "Qualified adult" means a person who:

54 (a) is 18 years of age or older; and

55 (b) has successfully completed the training program established in Section 26-41-104.

56 Section 2. Section **26-41-103** is amended to read:

57 **26-41-103. Voluntary participation.**

58 (1) [~~(a)~~] This chapter does not create a duty or standard of care for a person to be

59 trained in the use and storage of epinephrine auto-injectors. [~~A decision~~]

60 (2) Except as provided in Subsections (3) and (5), a decision by a person to
 61 successfully complete a training program under Section 26-41-104 and to make emergency
 62 epinephrine auto-injectors available under the provisions of this chapter is voluntary.

63 [~~(b) Each primary and secondary school in the state, both public and private, may~~
 64 ~~voluntarily determine whether or not to make emergency epinephrine auto-injectors and trained~~
 65 ~~personnel available at school.]~~

66 [~~(2) In making a determination under Subsection (1), a school may evaluate the~~
 67 ~~emergency medical response time to the school and determine whether initiating emergency~~
 68 ~~medical services is an acceptable alternative to epinephrine auto-injectors and trained~~
 69 ~~personnel.]~~

70 (3) A school, school board, or school official may not prohibit or dissuade a teacher ~~H→~~ or
 70a other school employee ~~←H~~ at
 71 a primary or secondary school in the state, either public or private, from:

72 (a) completing a training program under Section 26-41-104;

73 (b) possessing or storing an epinephrine auto-injector on school property if:

74 (i) the teacher ~~H→~~ or school employee ~~←H~~ is a qualified adult; and

75 (ii) the possession and storage is in accordance with the training received under Section
 76 26-41-104; or

77 (c) administering an epinephrine auto-injector to any person, if:

78 (i) the teacher ~~H→~~ or school employee ~~←H~~ is a qualified adult; and

79 (ii) the administration is in accordance with the training received under Section
 80 26-41-104.

81 (4) A school, school board, or school official may encourage a teacher ~~H→~~ or other school
 81a employee ~~←H~~ to volunteer to
 82 become a qualified adult.

83 (5) (a) Each primary or secondary school in the state, both public and private, shall

84 make an emergency epinephrine auto-injector available to any teacher ~~H→~~ or other school

84a employee who:

84b (i) is ~~←H~~ employed at the school ~~H→~~ ; and

85 (ii) [~~who~~] ~~←H~~ is a qualified adult.

86 (b) This section does not require a school described in Subsection (5)(a) to keep more
 87 than one emergency epinephrine auto-injector on the school premises, so long as it may be
 88 quickly accessed by a teacher ~~H→~~ or other school employee, ~~←H~~ who is a qualified

88a adult ~~H→~~, ~~←H~~ in the event of an emergency.

88b ~~H→~~ **(6) No school, school board, or school official shall retaliate or otherwise take**

88c **adverse action against a teacher or other school employee for:**

88d **(a) volunteering under Subsection (2);**

88e **(b) engaging in conduct described in Subsection (3); or**

88f **(c) failing or refusing to become a qualified adult.** ~~←H~~

89 Section 3. Section **26-41-104** is amended to read:

90 **26-41-104. Training in use of epinephrine auto-injector.**

91 (1) (a) Each primary and secondary school in the state, both public and private, [may
92 ~~designate one or more school personnel who volunteers to receive~~] shall make initial and
93 annual refresher training [~~from~~], regarding the storage and emergency use of an epinephrine
94 auto-injector, available to any teacher ~~H~~→ or other school employee ←~~H~~ who volunteers to
94a become a qualified adult.

95 (b) The training described in Subsection (1)(a) may be provided by the school nurse, or
96 other [qualified] person qualified to provide such training, designated by the school district
97 physician, the medical director of the local health department, or the local emergency medical
98 services director [~~regarding the storage and emergency use of an epinephrine auto-injector~~].

99 (2) A person who provides training under Subsection (1) or (6) shall include in the
100 training:

101 (a) techniques for recognizing symptoms of anaphylaxis;

102 (b) standards and procedures for the storage and emergency use of epinephrine
103 auto-injectors;

104 (c) emergency follow-up procedures, including calling the emergency 911 number and
105 contacting, if possible, the student's parent and physician; and

106 (d) written materials covering the information required under this Subsection (2).

107 (3) A [~~designated person~~] qualified adult shall retain for reference the written materials
108 prepared in accordance with Subsection (2)(d).

109 (4) A public school shall permit a student to possess an epinephrine auto-injector or
110 possess and self-administer an epinephrine auto-injector if:

111 (a) the student's parent or guardian signs a statement:

112 (i) authorizing the student to possess or possess and self-administer an epinephrine
113 auto-injector; and

114 (ii) acknowledging that the student is responsible for, and capable of, possessing or
115 possessing and self-administering an epinephrine auto-injector; and

116 (b) the student's health care provider provides a written statement that states that:

117 (i) it is medically appropriate for the student to possess or possess and self-administer
118 an epinephrine auto-injector; and

119 (ii) the student should be in possession of the epinephrine auto-injector at all times.

120 (5) The Utah Department of Health, in cooperation with the state superintendent of

121 public instruction, shall design forms to be used by public schools for the parental and health
 122 care providers statements described in Subsection (6).

123 (6) (a) The department:

124 (i) shall approve educational programs conducted by other persons, to train people
 125 under Subsection (6)(b) of this section, regarding the use and storage of emergency epinephrine
 126 auto-injectors; and

127 (ii) may, as funding is available, conduct educational programs to train people
 128 regarding the use of and storage of emergency epinephrine auto-injectors.

129 (b) A person [~~designated~~] who volunteers to receive training to administer an
 130 epinephrine auto-injector under the provisions of this Subsection (6) must demonstrate a need
 131 for the training to the department, which may be based upon occupational, volunteer, or family
 132 circumstances, and shall include:

133 (i) camp counselors;

134 (ii) scout leaders;

135 (iii) forest rangers;

136 (iv) tour guides; and

137 (v) other persons who have or reasonably expect to have responsibility for at least one
 138 other person as a result of the person's occupational or volunteer status.

139 (7) The department shall adopt rules in accordance with Title 63, Chapter 46a, Utah
 140 Administrative Rulemaking Act, to:

141 (a) establish and approve training programs in accordance with this section; and

142 (b) establish a procedure for determining the need for training under Subsection
 143 (6)(b)(v).

144 Section 4. Section **26-41-105** is amended to read:

145 **26-41-105. Authority to obtain and use an epinephrine auto-injector.**

146 (1) A [~~person~~] qualified adult who is [~~designated by~~] a teacher ~~H→~~ or other school
 146a employee ~~←H~~ at a public or private
 147 primary or secondary school in the state [~~to receive training under Subsection 26-41-104(1)~~], or
 148 a school nurse, may obtain from the school district physician, the medical director of the local
 149 health department, or the local emergency medical services director a prescription for
 150 epinephrine auto-injectors.

151 (2) A [~~person permitted to administer epinephrine auto-injectors under the provisions~~

152 of ~~Subsection 26-41-104(6)~~ qualified adult may obtain from a physician, pharmacist, or any
153 other person or entity authorized to prescribe or sell prescribed medicines or drugs, a
154 prescription for an epinephrine auto-injector.

155 ~~[(3) A person authorized to administer an epinephrine auto-injector under the~~
156 ~~provisions of this chapter:]~~

157 (3) A qualified adult:

158 (a) may immediately administer an epinephrine auto-injector to a person exhibiting
159 potentially life-threatening symptoms of anaphylaxis when a physician is not immediately
160 available; and

161 (b) shall initiate emergency medical services or other appropriate medical follow-up in
162 accordance with the training materials retained under Section 26-41-104 after administering an
163 epinephrine auto-injector.

164 Section 5. Section **26-41-106** is amended to read:

165 **26-41-106. Immunity from liability.**

166 (1) A ~~[person who has received training under Section 26-41-104 and]~~ qualified adult
167 who acts in good faith is not liable in any civil or criminal action for any act taken or not taken
168 under the authority of this chapter with respect to an anaphylactic reaction.

169 (2) Section 53A-11-601 does not apply to the administration of an epinephrine auto-
170 injector in accordance with this chapter.

Legislative Review Note
as of 12-27-07 10:18 AM

Office of Legislative Research and General Counsel

Fiscal Note

**H.B. 101 - Amendments to Emergency Injection for Anaphylactic Reaction
Act**

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
