

**A-Engrossed**  
**House Bill 2749**

Ordered by the House April 22  
Including House Amendments dated April 22

Sponsored by COMMITTEE ON EDUCATION

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires school district boards to allow certain medications to be kept in student's classroom if requested by student's parent or guardian **and other conditions are met.**

*[Requires school district boards to ensure that appropriate number of school personnel receive educational training related to use of autoinjectable epinephrine.]*

Declares emergency, effective July 1, 2013.

**A BILL FOR AN ACT**

1  
2 Relating to student medication; amending ORS 339.866 and 339.871; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 339.866 is amended to read:

5 339.866. (1) As used in this section:

6 (a) "Asthma" means a chronic inflammatory disorder of the airways that requires ongoing med-  
7 ical intervention.

8 (b) "Medication" means any prescription for bronchodilators or autoinjectable epinephrine pre-  
9 scribed by a student's Oregon licensed health care professional for asthma or severe allergies.

10 (c) "Severe allergy" means a life-threatening hypersensitivity to a specific substance such as  
11 food, pollen or dust.

12 (2) A school district board shall adopt policies and procedures that provide for self-  
13 administration of medication by kindergarten through grade 12 students with asthma or severe  
14 allergies:

15 (a) In school;

16 (b) At a school-sponsored activity;

17 (c) While under the supervision of school personnel;

18 (d) In before-school or after-school care programs on school-owned property; and

19 (e) In transit to or from school or school-sponsored activities.

20 (3) The policies and procedures shall:

21 (a) Require that an Oregon licensed health care professional prescribe the medication to be used  
22 by the student during school hours and instruct the student in the correct and responsible use of  
23 the medication;

24 (b) Require that an Oregon licensed health care professional, acting within the scope of the  
25 person's license, formulate a written treatment plan for managing the student's asthma or severe  
26 allergy and for the use of medication by the student during school hours;

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (c) Require that the parent or guardian of the student submit to the school any written doc-  
2 umentation required by the school, including any documents related to liability;

3 (d) Require that backup medication, if provided by a student's parent or guardian, be kept at the  
4 student's school in a location to which the student has immediate access in the event the student  
5 has an asthma or severe allergy emergency;

6 (e) **Require the establishment of a process by which the parent or guardian of a student  
7 may request in writing that backup prescribed autoinjectable epinephrine be kept at a rea-  
8 sonably secure location in a student's classroom if:**

9 (A) **The location identified under paragraph (d) of this subsection is not the student's  
10 classroom; and**

11 (B) **A licensed health care professional verifies in writing that lack of immediate access  
12 to autoinjectable epinephrine may be life threatening to the student;**

13 [(e)] (f) Require that a school request from the student's parent or guardian that the parent or  
14 guardian provide medication for emergency use by the student; and

15 [(f)] (g) Allow a school to revoke its permission for a student to self-administer medication if the  
16 student does not responsibly self-administer the medication or abuses the use of the medication.

17 (4) A school district board may impose other policies and procedures that the board determines  
18 are necessary to protect a student with asthma or a severe allergy.

19 (5) A school district board may not require school personnel who have not received appropriate  
20 training to assist a student with asthma or a severe allergy with self-administration of medication.

21 (6) This section does not apply to youth correctional facilities.

22 **SECTION 2.** ORS 339.871 is amended to read:

23 339.871. (1) A school administrator, school nurse, teacher or other school employee designated  
24 by the school administrator is not liable in a criminal action or for civil damages as a result of a  
25 student's [*self-administration*] **use** of medication, as described in ORS 339.866, if the school adminis-  
26 trator, school nurse, teacher or other school employee, in compliance with the instructions of the  
27 student's Oregon licensed health care professional, in good faith:

28 (a) Assists the student's self-administration of the medication, **if the medication is available  
29 to the student** pursuant to written permission and instructions of the student's parent, guardian  
30 or Oregon licensed health care professional[.]; **or**

31 (b) **Administers autoinjectable epinephrine to a student with a severe allergy who is un-  
32 able to self-administer the medication, if the autoinjectable epinephrine is available for the  
33 student pursuant to written permission and instructions of the student's parent, guardian  
34 or Oregon licensed health care professional.**

35 (2) **A school district and the members of a school district board are not liable in a crim-  
36 inal action or for civil damages as a result of a student's use of medication, as described in  
37 ORS 339.866, if:**

38 (a) **Any person in good faith administers autoinjectable epinephrine to a student with a  
39 severe allergy who is unable to self-administer the medication;**

40 (b) **The person administered the autoinjectable epinephrine at a school, on school prop-  
41 erty under the jurisdiction of the district or at an activity under the jurisdiction of the  
42 school district; and**

43 (c) **The autoinjectable epinephrine is available for the student pursuant to written per-  
44 mission and instructions of the student's parent, guardian or Oregon licensed health care  
45 professional.**

1        [(2)] (3) The civil and criminal immunities imposed by this section do not apply to an act or  
2        omission amounting to gross negligence or willful and wanton misconduct.

3        **SECTION 3. This 2013 Act being necessary for the immediate preservation of the public**  
4        **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
5        **July 1, 2013.**

6

---