

Union Calendar No. 364

108TH CONGRESS
2D SESSION

H. R. 2023

[Report No. 108-606, Part I]

To give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2003

Mr. STEARNS (for himself, Mr. KENNEDY of Rhode Island, Mr. TOWNS, Mr. BARTON of Texas, Mr. ISSA, Mrs. CHRISTENSEN, and Mr. SMITH of New Jersey) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JULY 14, 2004

Reported from the Committee on Energy and Commerce with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

JULY 14, 2004

Referral to the Committee on Education and the Workforce extended for a period ending not later than July 14, 2004

JULY 14, 2004

Additional sponsors: Mr. WAXMAN, Ms. WATERS, Mr. BASS, Mr. McNULTY, Mr. ENGEL, Mr. VAN HOLLEN, Mr. FOLEY, Ms. JACKSON-LEE of Texas, Mrs. DAVIS of California, Ms. GINNY BROWN-WAITE of Florida, Mr. PAUL, Ms. CORRINE BROWN of Florida, Mr. OWENS, Mr. LANTOS, Mr. KILDEE, Ms. LOFGREN, Mr. FROST, Mr. WYNN, Mr. WALSH, Ms. MILLENDER-MCDONALD, Mr. JENKINS, Mrs. McCARTHY of New York, Mr. KIRK, Mr. WAMP, Mr. GILLMOR, Mr. NORWOOD, Mr. UPTON, Mr. FERGUSON, Mr. PALLONE, Mr. ANDREWS, Mr. ROTHMAN, Mr. ROGERS of Michigan, Ms. NORTON, Mr. PASCRELL, Mr. RANGEL, Mrs. BONO, Mr. PAYNE, Ms. BORDALLO, Mr. TERRY, Mr. ACEVEDO-VILÁ, Mr. SAXTON,

Mr. MENENDEZ, Mr. HOLT, Mr. ISRAEL, Mr. LEWIS of Georgia, Mr. McDERMOTT, and Mr. LOBIONDO

JULY 14, 2004

Committee on Education and the Workforce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on May 7, 2003]

A BILL

To give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the "Asthmatic School-
5 children's Treatment and Health Management Act of
6 2004".*

7 **SEC. 2. FINDINGS.**

8 *The Congress finds the following:*

9 *(1) Asthma is a chronic condition requiring life-
10 time, ongoing medical intervention.*

11 *(2) In 1980, 6,700,000 Americans had asthma.*

12 *(3) In 2001, 20,300,000 Americans had asthma;
13 6,300,000 children under age 18 had asthma.*

(6) In 2000, there were 465,000 asthma-related hospitalizations (214,000 of these involved children under 18 years of age).

(7) In 2000, 4,487 people died from asthma, and of these 223 were children.

(10) At least 30 States have legislation protecting the rights of children to carry and self-administer asthma metered-dose inhalers, and at least 18

1 *States expand this protection to epinephrine auto-*
2 *injectors.*

3 *(11) Tragic refusals of schools to permit students*
4 *to carry their inhalers and auto-injectable epineph-*
5 *rine have occurred, some resulting in death and*
6 *spawning litigation.*

7 *(12) School district medication policies must be*
8 *developed with the safety of all students in mind. The*
9 *immediate and correct use of asthma inhalers and*
10 *auto-injectable epinephrine are necessary to avoid se-*
11 *rious respiratory complications and improve health*
12 *care outcomes.*

13 *(13) No school should interfere with the patient-*
14 *physician relationship.*

15 *(14) Anaphylaxis, or anaphylactic shock, is a*
16 *systemic allergic reaction that can kill within min-*
17 *utes. Anaphylaxis occurs in some asthma patients.*
18 *According to the American Academy of Allergy, Asth-*
19 *ma, and Immunology, people who have experienced*
20 *symptoms of anaphylaxis previously are at risk for*
21 *subsequent reactions and should carry an epinephrine*
22 *auto-injector with them at all times, if prescribed.*

23 *(15) An increasing number of students and*
24 *school staff have life-threatening allergies. Exposure to*
25 *the affecting allergen can trigger anaphylaxis. An-*

1 *phylaxis requires prompt medical intervention with*
2 *an injection of epinephrine.*

3 **SEC. 3. PREFERENCE FOR STATES THAT ALLOW STUDENTS**
4 **TO SELF-ADMINISTER MEDICATION TO TREAT**
5 **ASTHMA AND ANAPHYLAXIS.**

6 *(a) AMENDMENTS.—Section 399L of the Public Health*
7 *Service Act (42 U.S.C. 280g) is amended—*

8 *(1) by redesignating subsection (d) as subsection*
9 *(e); and*

10 *(2) by inserting after subsection (c) the fol-*
11 *lowing:*

12 *“(d) PREFERENCE FOR STATES THAT ALLOW STU-*
13 *DENTS TO SELF-ADMINISTER MEDICATION TO TREAT*
14 *ASTHMA AND ANAPHYLAXIS.—*

15 *“(1) PREFERENCE.—The Secretary, in making*
16 *any grant under this section or any other grant that*
17 *is asthma-related (as determined by the Secretary) to*
18 *a State, shall give preference to any State that satisfies*
19 *the following:*

20 *“(A) IN GENERAL.—The State must require*
21 *that each public elementary school and secondary*
22 *school in that State will grant to any student in*
23 *the school an authorization for the self-adminis-*
24 *tration of medication to treat that student’s asth-*
25 *ma or anaphylaxis, if—*

1 “(i) a health care practitioner pre-
2 scribed the medication for use by the stu-
3 dent during school hours and instructed the
4 student in the correct and responsible use of
5 the medication;

6 “(ii) the student has demonstrated to
7 the health care practitioner (or such practi-
8 tioner’s designee) and the school nurse (if
9 available) the skill level necessary to use the
10 medication and any device that is necessary
11 to administer such medication as pre-
12 scribed;

13 “(iii) the health care practitioner for-
14 mulates a written treatment plan for man-
15 aging asthma or anaphylaxis episodes of the
16 student and for medication use by the stu-
17 dent during school hours; and

18 “(iv) the student’s parent or guardian
19 has completed and submitted to the school
20 any written documentation required by the
21 school, including the treatment plan formu-
22 lated under clause (iii) and other documents
23 related to liability.

24 “(B) **SCOPE.**—An authorization granted
25 under subparagraph (A) must allow the student

1 *involved to possess and use his or her medica-*
2 *tion—*

3 “(i) *while in school;*
4 “(ii) *while at a school-sponsored activi-*
5 *ty, such as a sporting event; and*
6 “(iii) *in transit to or from school or*
7 *school-sponsored activities.*

8 “(C) *DURATION OF AUTHORIZATION.*—*An*
9 *authorization granted under subparagraph*
10 *(A)—*

11 “(i) *must be effective only for the same*
12 *school and school year for which it is grant-*
13 *ed; and*

14 “(ii) *must be renewed by the parent or*
15 *guardian each subsequent school year in ac-*
16 *cordance with this subsection.*

17 “(D) *BACKUP MEDICATION.*—*The State*
18 *must require that backup medication, if provided*
19 *by a student’s parent or guardian, be kept at a*
20 *student’s school in a location to which the stu-*
21 *dent has immediate access in the event of an*
22 *asthma or anaphylaxis emergency.*

23 “(E) *MAINTENANCE OF INFORMATION.*—*The*
24 *State must require that information described in*
25 *subparagraphs (A)(iii) and (A)(iv) be kept on*

1 *file at the student's school in a location easily*
2 *accessible in the event of an asthma or anaphy-*
3 *laxis emergency.*

4 “(2) *RULE OF CONSTRUCTION.*—*Nothing in this*
5 *subsection creates a cause of action or in any other*
6 *way increases or diminishes the liability of any per-*
7 *son under any other law.*

8 “(3) *DEFINITIONS.*—*For purposes of this sub-*
9 *section:*

10 “(A) *The terms ‘elementary school’ and ‘sec-*
11 *ondary school’ have the meaning given to those*
12 *terms in section 9101 of the Elementary and*
13 *Secondary Education Act of 1965.*

14 “(B) *The term ‘health care practitioner’*
15 *means a person authorized under law to pre-*
16 *scribe drugs subject to section 503(b) of the Fed-*
17 *eral Food, Drug, and Cosmetic Act.*

18 “(C) *The term ‘medication’ means a drug*
19 *as that term is defined in section 201 of the Fed-*
20 *eral Food, Drug, and Cosmetic Act and includes*
21 *inhaled bronchodilators and auto-injectable epi-*
22 *nephrine.*

23 “(D) *The term ‘self-administration’ means*
24 *a student’s discretionary use of his or her pre-*
25 *scribed asthma or anaphylaxis medication, pur-*

1 *suant to a prescription or written direction from*
2 *a health care practitioner.”.*

3 *(b) APPLICABILITY.—The amendments made by this*
4 *section shall apply only with respect to grants made on or*
5 *after the date that is 9 months after the date of the enact-*
6 *ment of this Act.*

7 **SEC. 4. SENSE OF CONGRESS COMMENDING CDC FOR ITS**
8 **STRATEGIES FOR ADDRESSING ASTHMA**
9 **WITHIN A COORDINATED SCHOOL HEALTH**
10 **PROGRAM.**

11 *The Congress—*

12 *(1) commends the Centers for Disease Control*
13 *and Prevention for identifying and creating “Strate-*
14 *gies for Addressing Asthma Within a Coordinated*
15 *School Program” for schools to address asthma; and*
16 *(2) encourages all schools to review these strate-*
17 *gies and adopt policies that will best meet the needs*
18 *of their student population.*

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