

2566

2013-2014 Regular Sessions

I N A S S E M B L Y

January 16, 2013

Introduced by M. of A. ORTIZ, GALEF, BOYLAND, ROSENTHAL -- Multi-Sponsored by -- M. of A. HOOPER, JACOBS, PERRY, RIVERA, WEISENBERG, WRIGHT -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the use of epinephrine by students

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The education law is amended by adding a new section 921 to
2 read as follows:

3 S 921. PUPILS AFFLICTED WITH SEVERE FOOD OR OTHER ALLERGIES. 1. THE
4 BOARD OF EDUCATION OR TRUSTEES OF EACH SCHOOL DISTRICT AND BOARD OF
5 COOPERATIVE EDUCATIONAL SERVICES SHALL ALLOW PUPILS WHO HAVE BEEN DIAG-
6 NOSED BY A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER WITH
7 A SEVERE FOOD OR OTHER ALLERGY TO CARRY AND USE THE PRESCRIBED MEDICA-
8 TION EPINEPHRINE AND A DEVICE TO SELF-ADMINISTER EPINEPHRINE, SUCH AS AN
9 EPINEPHRINE AUTO-INJECTOR, DURING THE SCHOOL DAY AND DURING SCHOOL SPON-
10 SORED ACTIVITIES THAT OCCUR AFTER THE REGULAR SCHOOL DAY OR OUTSIDE OF
11 THE SCHOOL, WITH THE WRITTEN PERMISSION OF A PHYSICIAN OR OTHER DULY
12 AUTHORIZED HEALTH CARE PROVIDER, AND WRITTEN PARENTAL CONSENT, BASED ON
13 SUCH PHYSICIAN'S OR PROVIDER'S DETERMINATION THAT SUCH PUPIL IS SUBJECT
14 TO ALLERGIC ATTACKS SEVERE ENOUGH TO DEBILITATE SUCH PUPIL. A RECORD OF
15 SUCH PERMISSION SHALL BE MAINTAINED IN THE SCHOOL OFFICE.

16 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO
17 THE CONTRARY NO PARTY SHALL HAVE A CAUSE OF ACTION FOR PERSONAL INJURY
18 OR ANY OTHER CLAIM BASED ON THE USE OF AN EPINEPHRINE AUTO-INJECTOR BY A
19 SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, ITS AGENT,
20 A SCHOOL OFFICER, EMPLOYEE OR VOLUNTEER AT THE SCHOOL OR A SCHOOL-SPON-
21 SORED FUNCTION, PROVIDED THAT SUCH USE WAS PERFORMED REASONABLY AND IN
22 GOOD FAITH.

23 S 2. This act shall take effect on the one hundred twentieth day after
24 it shall have become a law; provided, however, that effective immediate-
25 ly the commissioner of education is authorized to promulgate rules and
26 regulations for the implementation of this act on such effective date.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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