

## BILL ANALYSIS

Senate Research Center  
86R9126 CAE-F

H.B. 2243  
By: Oliverson; Bowers (Buckingham)  
Education  
4/29/2019  
Engrossed

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2243 amends current law relating to the use of prescription asthma medicine on public and private school campuses.

### RULEMAKING AUTHORITY

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 3 (Section 38.208, Education Code) of this bill.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Subchapter E, Chapter 38, Education Code, to read as follows:

SUBCHAPTER E. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE  
AUTO-INJECTORS AND ASTHMA MEDICINE

SECTION 2. Amends the heading to Section 38.208, Education Code, to read as follows:

Sec. 38.208. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE  
AUTO-INJECTORS AND ASTHMA MEDICINE.

SECTION 3. Amends Section 38.208, Education Code, by adding Subsections (a-1), (b-1), and (f) and amending Subsections (c) and (e), as follows:

(a-1) Authorizes each school district, open-enrollment charter school, and private school to adopt and implement a policy authorizing a school nurse to maintain and administer asthma medicine at each campus in the district or school.

(b-1) Requires the policy, if a policy is adopted under Subsection (a-1), to provide that the school nurse is authorized to administer prescription asthma medicine to a student only if the school nurse has written notification from a parent or guardian of the student that the student has been diagnosed as having asthma and stating that the school nurse is authorized to administer prescription asthma medicine to the student. Authorizes a school nurse to administer the prescription asthma medicine only at a school campus.

(c) Requires the executive commissioner of the Health and Human Services Commission, in consultation with the commissioner of education, and with advice from the advisory committee as appropriate, to adopt rules regarding the maintenance, administration, and disposal of an epinephrine auto-injector at a school campus subject to a policy adopted under Subsection (a) (relating to authorizing certain entities to adopt a policy regarding maintenance, administration, and disposal of epinephrine auto-injectors) and the maintenance and administration of asthma medicine at a school campus subject to a policy adopted under Subsection (a-1). Requires the rules to establish:

(1) makes no changes to this subdivision;

(2) the amount of prescription asthma medicine available at each campus;

(3) creates this subdivision from existing text and adds asthma medicine to a list of items the inventory of which a school is required to check at regular intervals for expiration and replacement; and

(4) redesignates existing Subdivision (3) as this subdivision.

(e) Requires the supply of asthma medicine at each campus to be stored in a secure location and be easily accessible to the school nurse.

(f) Prohibits the policy described by Subsection (a-1) from requiring a school district, open-enrollment charter school, or private school to purchase prescription asthma medicine or require any other expenditure related to the maintenance or administration of asthma medicine that would result in a negative fiscal impact on the district or school.

SECTION 4. Amends the heading to Section 38.211, Education Code, to read as follows:

Sec. 38.211. PRESCRIPTION OF EPINEPHRINE AUTO-INJECTORS AND ASTHMA MEDICINE.

SECTION 5. Amends Sections 38.211(a), (b), (c), (e), and (f), Education Code, as follows:

(a) Authorizes a physician or person who has been delegated prescriptive authority under Chapter 157 (Authority of Physician to Delegate Certain Medical Acts), Occupations Code, to prescribe epinephrine auto-injectors or asthma medicine, rather than prescribe epinephrine auto-injectors, in the name of a school district, open-enrollment charter school, or private school.

(b) Requires a physician or other person who prescribes epinephrine auto-injectors or asthma medicine, rather than prescribes epinephrine auto-injectors, under Subsection (a) to provide the school district, open-enrollment charter school, or private school with a standing order for the administration of, as applicable:

(1) creates this subdivision from existing text and makes a nonsubstantive change; or

(2) asthma medicine to a person reasonably believed to be experiencing a symptom of asthma and who has provided written notification and permission as required by Section 38.208(b-1).

(c) Provides that the standing order under Subsection (b) is not required to be patient-specific, and authorizes the epinephrine auto-injector or asthma medicine, rather than the epinephrine auto-injector, to be administered to a person without a previously established physician-patient relationship.

(e) Requires an order issued under this section to contain:

(1)–(2) makes no changes to these subdivisions;

(3) the quantity of epinephrine auto-injectors or asthma medicine, rather than the quantity of epinephrine auto-injectors, to be obtained and maintained under the order; and

(4) makes no changes to this subdivision.

(f) Authorizes a pharmacist to dispense an epinephrine auto-injector or asthma medicine, rather than an epinephrine auto-injector, to a school district, open-enrollment charter school, or private school without requiring the name or any other identifying information relating to the user.

SECTION 6. Amends Section 38.212, Education Code, as follows:

Sec. 38.212. NOTICE TO PARENTS. Deletes existing text relating to the maintenance, administration, and disposal of epinephrine auto-injectors and makes a nonsubstantive change.

SECTION 7. Amends Section 38.215(a), Education Code, as follows:

(a) Provides that a person who in good faith takes, or fails to take, any action under this subchapter is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act, including:

(1) issuing an order for epinephrine auto-injectors or asthma medicine, rather than for epinephrine auto-injectors;

(2) supervising or delegating the administration of an epinephrine auto-injector or asthma medicine, rather than an epinephrine auto-injector;

(3) possessing, maintaining, storing, or disposing of an epinephrine auto-injector or asthma medicine, rather than an epinephrine auto-injector;

(4) prescribing an epinephrine auto-injector or asthma medicine, rather than an epinephrine auto-injector;

(5) dispensing:

(A) creates this paragraph from existing text and makes a nonsubstantive change; or

(B) asthma medicine, provided that permission has been granted as provided by Section 38.208(b-1);

(6) administering, or assisting in administering, an epinephrine auto-injector or asthma medicine, provided that permission has been granted as provided by Section 38.208(b-1); or

(7)–(8) makes no changes to these subdivisions.

SECTION 8. Effective date: upon passage or September 1, 2019.