

SENATE BILL 95

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(PRE-FILED)

2lr0586
CF HB 154

By: **Senator Lam**

Requested: September 28, 2021

Introduced and read first time: January 12, 2022

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Public Schools – Anaphylactic Food Allergies – Guidelines and Requirements**

3 FOR the purpose of requiring each county board of education to adopt, implement, and
4 publish certain guidelines for reducing the risk to students with anaphylactic food
5 allergies; and generally relating to anaphylactic food allergies and public schools.

6 BY repealing and reenacting, with amendments,

7 Article – Education

8 Section 7–426.1

9 Annotated Code of Maryland

10 (2018 Replacement Volume and 2021 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
12 That the Laws of Maryland read as follows:

13 **Article – Education**

14 7–426.1.

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) “Anaphylactic allergy” means a food allergy that causes a severe,
17 systematic reaction resulting in circulatory collapse or shock that may be fatal.

18 (3) “Employee” means an individual who is employed by a local board of
19 education, including part–time employees, certified and noncertified substitute teachers
20 employed by the local board of education for at least 7 days each school year, maintenance
21 workers, and administrative staff.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(4) “MAJOR FOOD ALLERGEN” MEANS:**

2 **(I) MILK;**

3 **(II) EGG;**

4 **(III) FISH;**

5 **(IV) CRUSTACEAN SHELLFISH;**

6 **(V) TREE NUTS;**

7 **(VI) WHEAT;**

8 **(VII) PEANUTS;**

9 **(VIII) SOYBEANS; AND**

10 **(IX) SESAME.**

11 **[(4)] (5)** “Self-administer” means the application or consumption of
12 medications in a manner prescribed by a health practitioner who is licensed, certified, or
13 otherwise authorized under the Health Occupations Article to prescribe medications and
14 medication delivery devices by the individual for whom the medication was prescribed
15 without additional assistance or direction.

16 **(B) (1) EACH COUNTY BOARD SHALL ADOPT AND IMPLEMENT**
17 **GUIDELINES IN ACCORDANCE WITH THE MARYLAND STATE SCHOOL HEALTH**
18 **SERVICE GUIDELINES TO REDUCE THE RISK OF EXPOSURE TO ANAPHYLACTIC**
19 **CAUSATIVE AGENTS IN CLASSROOMS AND COMMON AREAS.**

20 **(2) AT A MINIMUM, THE GUIDELINES UNDER PARAGRAPH (1) OF THIS**
21 **SUBSECTION SHALL:**

22 **(I) DESCRIBE THE ROLES AND RESPONSIBILITIES OF PARENTS,**
23 **ADMINISTRATORS, HEALTH CARE STAFF, EDUCATORS, FOOD SERVICE EMPLOYEES,**
24 **AND OPERATIONS STAFF;**

25 **(II) EMPHASIZE COMMUNICATION AND COLLABORATION**
26 **BETWEEN SCHOOL STAFF, STUDENTS, AND PARENTS, INCLUDING:**

27 **1. NOTIFICATION OF A STUDENT’S ANAPHYLACTIC**
28 **ALLERGY TO EDUCATORS AND OTHER SCHOOL STAFF WHO COME INTO CONTACT**
29 **WITH THE STUDENT; AND**

1 **2. NOTIFICATION TO PARENTS AND STUDENTS ABOUT**
2 **MEASURES THE SCHOOL IS TAKING TO AVOID EXPOSURE TO ALLERGENS;**

3 **(III) PROVIDE INFORMATION TO PARENTS ABOUT 504 PLANS**
4 **AND THEIR APPLICABILITY TO STUDENTS WITH ANAPHYLACTIC ALLERGIES;**

5 **(IV) DESIGNATE SCHOOL AREAS THAT ARE FOOD-FREE;**

6 **(V) DESIGNATE TABLES IN THE CAFETERIA TO BE USED BY**
7 **STUDENTS WITH ANAPHYLACTIC ALLERGIES THAT ARE FREE OF FOODS CONTAINING**
8 **THE MAJOR FOOD ALLERGEN OF THE STUDENT USERS;**

9 **(VI) PROVIDE GUIDELINES FOR WHO MAY USE OR ACCOMPANY**
10 **STUDENTS USING TABLES FREE OF MAJOR FOOD ALLERGENS;**

11 **(VII) PROMOTE HAND WASHING AND OTHER METHODS FOR THE**
12 **SAFE HANDLING OF FOOD;**

13 **(VIII) PROVIDE GUIDELINES FOR THE HANDLING OF FOOD ON**
14 **SCHOOL-PROVIDED TRANSPORTATION;**

15 **(IX) ENSURE THAT STUDENTS WITH ANAPHYLACTIC ALLERGIES**
16 **ARE ABLE TO FULLY PARTICIPATE IN ALL SCHOOL EVENTS, AFTER SCHOOL**
17 **ACTIVITIES, AND FIELD TRIPS;**

18 **(X) PROVIDE GUIDANCE FOR FOOD DISTRIBUTION BY PRIVATE**
19 **GROUPS HOLDING FUNCTIONS ON SCHOOL GROUNDS; AND**

20 **(XI) ESTABLISH STRATEGIES TO REDUCE BULLYING AND**
21 **HARASSMENT OF STUDENTS WITH ANAPHYLACTIC ALLERGIES.**

22 **(3) EACH COUNTY BOARD SHALL PUBLISH THE GUIDELINES**
23 **ADOPTED UNDER THIS SUBSECTION ON ITS WEBSITE AND BY ANY OTHER METHOD**
24 **DETERMINED APPROPRIATE BY THE BOARD.**

25 **(C) (1) (I) EACH PUBLIC SCHOOL SHALL DEVELOP A SYSTEM TO**
26 **DISCLOSE, WITHIN A REASONABLE TIME IN ADVANCE OF SERVICE, THE FOODS**
27 **SERVED IN THE SCHOOL AND THE MAJOR FOOD ALLERGENS CONTAINED IN THE**
28 **FOOD.**

29 **(II) A DISCLOSURE MADE UNDER THIS PARAGRAPH MAY BE BY:**

1 **1. DIRECT ELECTRONIC OR PHYSICAL MESSAGES SENT**
2 **TO THE SCHOOL COMMUNITY; OR**

3 **2. POSTING ON THE INTERNET.**

4 **(2) EACH DAY THAT FOOD IS SERVED IN A SCHOOL, THE SCHOOL**
5 **SHALL POST IN A CONSPICUOUS LOCATION IN THE CAFETERIA A LIST OF ALL THE**
6 **FOODS BEING SERVED AND ANY MAJOR FOOD ALLERGENS CONTAINED IN THE FOOD.**

7 **[(b)] (D)** In consultation with a school health professional, the principal of a
8 public school that has a child attending the school who has been identified to the school as
9 having an anaphylactic allergy shall:

10 (1) Monitor **AND IMPLEMENT, AS NECESSARY**, the strategies developed
11 in accordance with the Maryland State school health service guidelines to reduce the risk
12 of exposure to anaphylactic causative agents in classrooms and common areas;

13 (2) [Designate a peanut- and tree nut-free table in the cafeteria]
14 **MONITOR AND IMPLEMENT THE GUIDELINES ESTABLISHED BY THE COUNTY BOARD**
15 **UNDER SUBSECTION (B) OF THIS SECTION; and**

16 (3) Establish procedures for self-administration of medication by the child
17 if the child is determined to be capable of and responsible for self-administration by the
18 principal, parent or guardian of the child, and physician of the child.

19 **[(c)] (E)** A school may revoke the authority of a child to self-administer
20 medication if the child endangers himself or herself or another child through misuse of the
21 medication.

22 **[(d)] (F)** Except for any willful or grossly negligent act, an employee who
23 responds in good faith to the anaphylactic reaction of a child in accordance with this section
24 is immune from civil liability for any act or omission in the course of responding to the
25 reaction.

26 **[(e)] (G)** If a child has authority to self-administer medication in accordance
27 with subsection **[(b)(3)] (D)(3)** of this section, a local county board may require the parent
28 or guardian of the child to sign a statement acknowledging that the school or its employee
29 incurs no liability as a result of injury arising from self-administration by the child.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
31 1, 2022.