

SUBJECT: Allowing students to self-administer prescription asthma medication

COMMITTEE: Public Education — favorable, without amendment

VOTE: 6 ayes — Sadler, Grusendorf, Hochberg, Oliveira, Olivo, Smith
0 nays
3 absent — Dutton, Dunnam, Hardcastle

WITNESSES: For — Bill Grusendorf; Dr. Bennie McWilliams, American Lung Association; Jacki Shobe; Ava Wood, Asthma Coalition of Texas
Against — None
On — David Anderson, Texas Education Agency; Michelle McComb, Texas Department of Health, School Health Program

BACKGROUND: Many Texas public schools have adopted a “zero tolerance” drug policy. Under such a policy, students may not have any drug, including prescription or over-the-counter medications, in their possession while they are on school property or at a school-related event or activity. Students with asthma often are prescribed asthma inhalers to use on an as-needed basis to prevent or defuse asthma attacks. At zero tolerance schools, students with asthma are not permitted to carry their inhalers with them.

DIGEST: HB 1688 would add sec. 38.013 to the Education Code to permit a student with asthma to possess and self-administer prescription asthma medication while on school property or attending school-related events if three conditions were met.

First, the medication would have to be prescribed for that student as indicated on the prescription label. Second, medication would have to be self-administered in compliance with the prescription or written instructions from a licensed health care provider. Third, the parent would have to provide certain documents to the school, including:

! a signed, written authorization by the parent for the student to self-administer the medication at school or at a school-related event;

- ! a signed, written statement by the parent releasing the school district, including its agents and employees, from liability for an injury arising from the student's self-administration of asthma medication, and indemnifying the school district from any claim arising from it;
- ! a signed, written doctor's statement indicating the student had asthma and was capable of self-administering the medication; the name, purpose, and dosage of the medication; times or circumstances when the medication could be administered; and the period for which the medication was prescribed.

HB 1688 would require the school nurse, or the principal if the school had no school nurse, to keep the doctor's statement on file. A school district would not be liable for an injury caused by a student's self-administration of asthma medication. The commissioner could adopt rules and prescribe forms to assist in compliance with the bill.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

**SUPPORTERS
SAY:**

HB 1688 would create a limited, common-sense exception to zero-tolerance anti-drug policies for asthma inhalers. This legislation is needed because a large number of children in Texas public schools suffer from asthma. Asthma is the leading cause of chronic illness in children and teens, as well as the number one reason why children and teens miss school. Approximately one million Texans, a third of them children, have asthma. Eleven other states have passed similar legislation.

HB 1688 would allow crucial access to asthma medication for students with this potentially life-threatening disease. Due to advances in medication and treatment, it is now possible to prevent or mitigate an acute asthma attack if asthma medication is administered promptly. One effective way to control asthma is the use of a prescription asthma inhaler. Inhalers are used as soon as a person feels the onset of an asthma attack. The 10 or 15 minute delay between when a student feels the onset of an asthma attack and when the student can get medication from a nurse or principal's office could result in a more severe asthma attack and then a trip to the hospital. An emergency room visit can cost parents up to \$500 as well as lost time from work.

HB 1688 would allow students to self-manage asthma attack symptoms. Current asthma treatment often includes teaching the asthmatic how to manage asthma attack symptoms. Self-management is considered the most important element of an asthma treatment plan. A student with asthma would probably be more adept at managing his own personal asthma symptoms than a school nurse, and would almost definitely be better at managing his asthma than a non-nurse school employee, such as a principal.

HB 1688 would set a statewide asthma medication policy that would protect both students and school districts. This is an area in which a uniform statewide policy is necessary and would be a minor infringement on school districts' local control. Current law allows each school district to set its own policy regarding asthma medication. Many districts require students to keep their asthma medication locked up in the office of the school nurse or principal. Districts may be inclined to adopt such a policy based on potential liability concerns. The bill would alleviate district liability concerns by specifically granting immunity to school districts, their agents, and employees.

The bill would alleviate parental concerns about their children's access to asthma medication. Some schools have suspended students carrying asthma medication, or otherwise removed them from classrooms, pursuant to a zero tolerance policy. Many parents are unaware that there is no state law forbidding students from carrying their inhalers.

There is little or no danger that other students would use a student's asthma inhaler. The medication has an unpleasant taste and does not result in a "high" or recreational experience. Even if a non-asthmatic student did use an inhaler, it would not have an impact on the health of that student. Use of an inhaler by a non-asthmatic student would result in a temporarily raised heart rate, but would not harm a student's health unless they had a congenital heart problem.

The bill would contain adequate protections to ensure that only students with a valid doctor's prescription and parental permission are able to carry asthma medication.

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OPPONENTS No apparent opposition.
SAY: