

Union Calendar No. 353

110TH CONGRESS
2D SESSION

H. R. 2063

[Report No. 110-571, Part I]

To direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a voluntary policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2007

Mrs. LOWEY (for herself, Mr. EMANUEL, Mr. McDERMOTT, and Mr. KENNEDY) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, 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

APRIL 8, 2008

Additional sponsors: Mr. KELLER of Florida, Mrs. MALONEY of New York, Mr. KIRK, Mr. GRIJALVA, Mr. DAVIS of Illinois, Mr. ISRAEL, Ms. MCCOLLUM of Minnesota, Mr. McNULTY, Mr. UPTON, Mr. LOBIONDO, Mr. VAN HOLLEN, Mr. ANDREWS, Mr. KAGEN, Mr. WALSH of New York, Ms. SCHAKOWSKY, Mr. BUCHANAN, Mr. PITTS, Mr. DELAHUNT, Mr. WAXMAN, Mr. KUCINICH, Mr. GORDON of Tennessee, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. RANGEL, Mr. MARKEY, Mr. SAXTON, Mr. MICHAUD, Mr. ALLEN, Mr. HALL of New York, Mr. YARMUTH, Ms. SUTTON, Mr. CARNAHAN, Mrs. CAPPS, Mr. NEAL of Massachusetts, Ms. DEGETTE, Mr. MORAN of Virginia, Mr. RUSH, Mr. STUPAK, Mr. TIM MURPHY of Pennsylvania, Mr. TOWNS, Ms. DELAURO, Mr. HOLT, Ms. SOLIS, Ms. CLARKE, Mr. CUMMINGS, Mr. DEFazio, Ms. BEAN, Ms. ESHOO, Mr. RODRIGUEZ, Mrs. BLACKBURN, Mr. HOYER, Mr. SARBANES, Mr. HINCHEY, Mr. SOUDER, Mr. WYNN, Ms. SHEA-PORTER, Mr. HARE, Mr. UDALL of Colorado, Mr. GENE GREEN of Texas, Mr. FERGUSON, Ms. BALDWIN, Mr. WEINER, Mr. MATHESON, Mr. ALTMIRE, Mr. PRICE of North Carolina, Mr. RUPPERSBERGER, Mr. PUTNAM, Mr. ROSS, Mr.

TIERNEY, Mr. ENGEL, Mr. LAMPSON, Ms. HOOLEY, Mr. FOSSELLA, and
Mr. PAYNE

APRIL 8, 2008

Reported from the Committee on Energy and Commerce with amendments

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

APRIL 8, 2008

Committee on Education and Labor 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 April 26, 2007]

A BILL

To direct the Secretary of Health and Human Services,
in consultation with the Secretary of Education, to de-
velop a voluntary policy for managing the risk of food
allergy and anaphylaxis in schools, to establish school-
based food allergy management grants, 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 “Food Allergy and Ana-*
5 *phylaxis Management Act of 2008”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds as follows:*

8 (1) *Food allergy is an increasing food safety and*
9 *public health concern in the United States, especially*
10 *among students.*

1 (2) *Peanut allergy doubled among children from*
2 *1997 to 2002.*

3 (3) *In a 2004 survey of 400 elementary school*
4 *nurses, 37 percent reported having at least 10 stu-*
5 *dents with severe food allergies and 62 percent re-*
6 *ported having at least 5.*

7 (4) *Forty-four percent of the elementary school*
8 *nurses surveyed reported that the number of students*
9 *in their school with food allergy had increased over*
10 *the past 5 years, while only 2 percent reported a de-*
11 *crease.*

12 (5) *In a 2001 study of 32 fatal food-allergy in-*
13 *duced anaphylactic reactions (the largest study of its*
14 *kind to date), more than half (53 percent) of the indi-*
15 *viduals were aged 18 or younger.*

16 (6) *Eight foods account for 90 percent of all*
17 *food-allergic reactions: milk, eggs, fish, shellfish, tree*
18 *nuts, peanuts, wheat, and soy.*

19 (7) *Currently, there is no cure for food allergies;*
20 *strict avoidance of the offending food is the only way*
21 *to prevent a reaction.*

22 (8) *Anaphylaxis is a systemic allergic reaction*
23 *that can kill within minutes.*

24 (9) *Food-allergic reactions are the leading cause*
25 *of anaphylaxis outside the hospital setting, account-*

1 *ing for an estimated 30,000 emergency room visits,*
2 *2,000 hospitalizations, and 150 to 200 deaths each*
3 *year in the United States.*

4 (10) *Fatalities from anaphylaxis are associated*
5 *with a delay in the administration of epinephrine*
6 *(adrenaline), or when epinephrine was not adminis-*
7 *tered at all. In a study of 13 food allergy-induced*
8 *anaphylactic reactions in school-age children (6 fatal*
9 *and 7 near fatal), only 2 of the children who died re-*
10 *ceived epinephrine within 1 hour of ingesting the al-*
11 *lergen, and all but 1 of the children who survived re-*
12 *ceived epinephrine within 30 minutes.*

13 (11) *The importance of managing life-threat-*
14 *ening food allergies in the school setting has been rec-*
15 *ognized by the American Medical Association, the*
16 *American Academy of Pediatrics, the American Acad-*
17 *emy of Allergy, Asthma and Immunology, the Amer-*
18 *ican College of Allergy, Asthma and Immunology,*
19 *and the National Association of School Nurses.*

20 (12) *There are no Federal guidelines concerning*
21 *the management of life-threatening food allergies in*
22 *the school setting.*

23 (13) *Three-quarters of the elementary school*
24 *nurses surveyed reported developing their own train-*
25 *ing guidelines.*

1 (14) *Relatively few schools actually employ a*
2 *full-time school nurse. Many are forced to cover more*
3 *than 1 school, and are often in charge of hundreds if*
4 *not thousands of students.*

5 (15) *Parents of students with severe food allergies*
6 *often face entirely different food allergy management*
7 *approaches when their students change schools or*
8 *school districts.*

9 (16) *In a study of food allergy reactions in*
10 *schools and day-care settings, delays in treatment*
11 *were attributed to a failure to follow emergency plans,*
12 *calling parents instead of administering emergency*
13 *medications, and an inability to administer epineph-*
14 *rine.*

15 **SEC. 3. DEFINITIONS.**

16 *In this Act:*

17 (1) *ESEA DEFINITIONS.*—*The terms “local edu-*
18 *cational agency”, “secondary school”, and “elemen-*
19 *tary school” have the meanings given the terms in*
20 *section 9101 of the Elementary and Secondary Edu-*
21 *cation Act of 1965 (20 U.S.C. 7801).*

22 (2) *SCHOOL.*—*The term “school” includes pub-*
23 *lic—*

24 (A) *kindergartens;*

25 (B) *elementary schools; and*

1 (C) secondary schools.

2 (3) *SECRETARY.*—*The term “Secretary” means*
3 *the Secretary of Health and Human Services, in con-*
4 *sultation with the Secretary of Education.*

5 **SEC. 4. ESTABLISHMENT OF VOLUNTARY FOOD ALLERGY**
6 **AND ANAPHYLAXIS MANAGEMENT POLICY.**

7 (a) *ESTABLISHMENT.*—*Not later than 1 year after the*
8 *date of enactment of this Act, the Secretary shall—*

9 (1) *develop a policy to be used on a voluntary*
10 *basis to manage the risk of food allergy and anaphy-*
11 *laxis in schools; and*

12 (2) *make such policy available to local edu-*
13 *cational agencies and other interested individuals and*
14 *entities, including licensed child care providers, pre-*
15 *school programs, and Head Start, to be implemented*
16 *on a voluntary basis only.*

17 (b) *CONTENTS.*—*The voluntary policy developed by the*
18 *Secretary under subsection (a) shall contain guidelines that*
19 *address each of the following:*

20 (1) *Parental obligation to provide the school,*
21 *prior to the start of every school year, with—*

22 (A) *documentation from the student’s physi-*
23 *cian or nurse—*

24 (i) *supporting a diagnosis of food al-*
25 *lergy and the risk of anaphylaxis;*

1 (ii) identifying any food to which the
2 student is allergic;

3 (iii) describing, if appropriate, any
4 prior history of anaphylaxis;

5 (iv) listing any medication prescribed
6 for the student for the treatment of anaphy-
7 laxis;

8 (v) detailing emergency treatment pro-
9 cedures in the event of a reaction;

10 (vi) listing the signs and symptoms of
11 a reaction; and

12 (vii) assessing the student's readiness
13 for self-administration of prescription medi-
14 cation; and

15 (B) a list of substitute meals that may be
16 offered to the student by school food service per-
17 sonnel.

18 (2) The creation and maintenance of an indi-
19 vidual health care plan tailored to the needs of each
20 student with a documented risk for anaphylaxis, in-
21 cluding any procedures for the self-administration of
22 medication by such students in instances where—

23 (A) the students are capable of self-admin-
24 istering medication; and

1 (B) such administration is not prohibited
2 by State law.

3 (3) Communication strategies between individual
4 schools and local providers of emergency medical serv-
5 ices, including appropriate instructions for emergency
6 medical response.

7 (4) Strategies to reduce the risk of exposure to
8 anaphylactic causative agents in classrooms and com-
9 mon school areas such as cafeterias.

10 (5) The dissemination of information on life-
11 threatening food allergies to school staff, parents, and
12 students, if appropriate by law.

13 (6) Food allergy management training of school
14 personnel who regularly come into contact with stu-
15 dents with life-threatening food allergies.

16 (7) The authorization and training of school per-
17 sonnel to administer epinephrine when the school
18 nurse is not immediately available.

19 (8) The timely accessibility of epinephrine by
20 school personnel when the nurse is not immediately
21 available.

22 (9) Extracurricular programs such as non-aca-
23 demic outings and field trips, before- and after-school
24 programs, and school-sponsored programs held on

1 *weekends that are addressed in the individual health*
2 *care plan.*

3 (10) *The collection and publication of data for*
4 *each administration of epinephrine to a student at*
5 *risk for anaphylaxis.*

6 (c) *RELATION TO STATE LAW.—Nothing in this Act*
7 *or the policy developed by the Secretary under subsection*
8 *(a) shall be construed to preempt State law, including any*
9 *State law regarding whether students at risk for anaphy-*
10 *laxis may self-administer medication.*

11 **SEC. 5. VOLUNTARY NATURE OF POLICY AND GUIDELINES.**

12 *The policy developed by the Secretary under section*
13 *4(a) and the food allergy management guidelines contained*
14 *in such policy are voluntary. Nothing in this Act or the*
15 *policy developed by the Secretary under section 4(a) shall*
16 *be construed to require a local educational agency or school*
17 *to implement such policy or guidelines.*

Amend the title so as to read: “A bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a voluntary policy for managing the risk of food allergy and anaphylaxis in schools.”.

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