



# House of Representatives

General Assembly

**File No. 460**

January Session, 2005

Substitute House Bill No. 6286

*House of Representatives, April 20, 2005*

The Committee on Public Health reported through REP. SAYERS of the 60th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE EMERGENCY USE OF CARTRIDGE INJECTORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-557b of the general statutes is amended by  
2 adding subsection (h) as follows (*Effective October 1, 2005*):

3 (NEW) (h) Any person who has completed a course in first aid  
4 offered by the American Red Cross, the American Heart Association,  
5 the National Ski Patrol, the Department of Public Health or any  
6 director of health, as certified by the agency or director of health  
7 offering the course, or has been trained in the use of a cartridge injector  
8 by a licensed physician, physician's assistant, advanced practice  
9 registered nurse or registered nurse, and who, voluntarily and  
10 gratuitously and other than in the ordinary course of such person's  
11 employment or practice, renders emergency assistance by using a  
12 cartridge injector on another person in need thereof, shall not be liable  
13 to such person assisted for civil damages for any personal injuries

14 which result from acts or omissions by such person in using a cartridge  
15 injector, which may constitute ordinary negligence. The immunity  
16 provided in this subsection does not apply to acts or omissions  
17 constituting gross, wilful or wanton negligence. For the purposes of  
18 this subsection, "cartridge injector" has the same meaning as provided  
19 in subdivision (1) of subsection (e) of this section.

20 Sec. 2. (NEW) (*Effective October 1, 2005*) (a) For the purposes of this  
21 section:

22 (1) "Before or after school program" means any educational or  
23 recreational program for children offered in any building or on the  
24 grounds of any school by a local or regional board of education or  
25 other municipal agency, or by a private provider, before or after  
26 regular school hours, or both;

27 (2) "Cartridge injector" means an automatic prefilled cartridge  
28 injector or similar automatic injectable equipment used to deliver  
29 epinephrine in a standard dose for emergency first aid response to  
30 allergic reactions;

31 (3) "Day camp" means any recreational camp program operated by a  
32 municipal agency; and

33 (4) "Day care facility" means any child day care center or group day  
34 care home, as defined in subdivisions (1) and (2) of subsection (a) of  
35 section 19a-77 of the general statutes, that is excluded from the  
36 licensing requirements of sections 19a-77 to 19a-87, inclusive, of the  
37 general statutes by subsection (b) of section 19a-77 of the general  
38 statutes.

39 (b) Upon the request and with the written authorization of the  
40 parent or guardian of a child attending any before or after school  
41 program, day camp or day care facility, and pursuant to the written  
42 order of (1) a physician licensed to practice medicine, (2) a physician  
43 assistant licensed to prescribe in accordance with section 20-12d of the  
44 general statutes, or (3) an advanced practice registered nurse licensed

45 to prescribe in accordance with sections 20-94a and 20-94b of the  
 46 general statutes, the owner or operator of such before or after school  
 47 program, day camp or day care facility shall approve and provide  
 48 general supervision to an identified staff member trained to administer  
 49 medication with a cartridge injector to such child if the child has a  
 50 medically diagnosed allergic condition that may require prompt  
 51 treatment in order to protect the child against serious harm or death.  
 52 Such staff member shall be trained in the use of a cartridge injector by  
 53 a licensed physician, physician's assistant, advanced practice  
 54 registered nurse or registered nurse and shall complete a course in first  
 55 aid offered by the American Red Cross, the American Heart  
 56 Association, the National Ski Patrol, the Department of Public Health  
 57 or any director of health.

58 (c) The Commissioner of Public Health may adopt regulations, in  
 59 accordance with the provisions of chapter 54 of the general statutes, to  
 60 carry out the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	52-557b
Sec. 2	October 1, 2005	New section

**PH**            *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Judicial Dept.	GF - Savings	None	None
Public Health, Dept.	GF - Cost	None	None

Note: GF=General Fund

#### **Municipal Impact:**

Municipalities	Effect	FY 06 \$	FY 07 \$
All Municipalities	STATE MANDATE - Cost	Minimal	Minimal

### **Explanation**

The bill extends legal immunity to any person administering a cartridge injector to another person provided certain conditions are met. This provision could preclude future civil suits and thereby reduce the workload of the Judicial Department. Any such reduction is expected to be relatively minor and, thus, there is no associated fiscal impact.

It results in a minimal cost (STATE MANDATE) to all municipalities due to training requirements in the use of cartridge injectors. Each municipality will have to train at least one, and more likely numerous, individuals in the use of cartridge injectors. The cost of training, including a first aid course, per individual is estimated to be less than \$75. Larger municipalities with numerous programs and those municipalities with high staff turnover may experience costs beyond which one would consider them minimal.

If the Department of Public Health (DPH) chooses to adopt regulations concerning the administration of medication with a cartridge injector in before or after school programs, municipal day

camps or unlicensed day care facility settings, it is anticipated that it can do so within its normal budgetary resources. However, since these organizations are not regulated by the agency, no enforcement provisions exist. A significant cost would be incurred by the department should it become responsible for regulating these types of programs.

**OLR Bill Analysis**

sHB 6286

**AN ACT CONCERNING THE EMERGENCY USE OF CARTRIDGE INJECTORS****SUMMARY:**

The bill immunizes from civil liability certain people who provide emergency assistance by using an automatic prefilled cartridge injector on someone who needs it. A “cartridge injector” is a prefilled, automatic device for delivering a standard dose of epinephrine for emergency first aid in response to allergic reactions. Under the bill, the person administering the injector is not liable to the person he assisted for any injuries that result from any acts or omissions in using the injector that constitute ordinary negligence. The immunity does not apply to acts or omissions that constitute gross, willful, or wanton negligence.

Under certain circumstances, the bill requires the owner or operator of a before- or after-school program, day camp, or daycare facility to select and supervise an identified staff member trained to administer medication with a cartridge injector to a child in attendance who has a medically diagnosed allergic condition that may require prompt treatment in order to protect him against serious harm or death. The staff member must (1) be trained to use a cartridge injector by a licensed physician, physician’s assistant, advanced practice registered nurse (APRN), or registered nurse or (2) complete a first aid course offered by the American Red Cross, the American Heart Association, the National Ski Patrol, the Department of Public Health, or any director of health.

The bill authorizes the Public Health (DPH) commissioner to adopt implementing regulations.

EFFECTIVE DATE: October 1, 2005

**IMMUNITY FOR EMERGENCY ASSISTANCE**

The immunity the bill provides applies to anyone who voluntarily and

gratuitously renders emergency assistance by using a cartridge injector other than in the ordinary course of his employment or practice and has either

1. completed a first aid course offered by the American Red Cross, the American Heart Association, the National Ski Patrol, the DPH, or any director of health and is certified by the agency or health director offering the course, or
2. been trained to use a cartridge injector by a licensed physician, physician’s assistant, APRN, or registered nurse.

**REQUIREMENT FOR TRAINED STAFF MEMBER**

The requirement for a trained staff member in a before- or after-school program, day camp, or day care facility applies only if (1) the parent or guardian of a child attending such program, camp, or facility requests it and provides written authorization to use a cartridge injector, and (2) there is a written order for its use from a licensed physician, physician assistant, or an APRN.

**BEFORE OF AFTER SCHOOL PROGRAM**

The bill defines a “before or after school program” as any educational or recreational program for children offered in any building or on school grounds by a local or regional board of education, a municipal agency, or a private provider.

**DAY CAMP**

The bill defines a “day camp” as any recreational camp program a municipal agency operates.

**DAY CARE FACILITY**

The bill defines a “day care facility” as an unlicensed child day care center or group day care home. A “child day care center” is a facility that offers or provides a program of supplementary care to more than 12 related or unrelated children outside their own homes on a regular basis. A “group day care home” is a facility that offers or provides a program of supplementary care to not fewer than seven nor more than 12 related or unrelated children on a regular basis. Such supplementary care may include:

1. services administered by a public school system, or a municipal agency or department and located in a public school building;
2. services administered by a private school that complies with with state laws that require certain reporting to the commissioner of education, and are approved by the State Board of Education, or accredited by an accrediting agency the board recognizes;
3. recreation operations such as:
  - a. creative art studios for children that offer parent-child recreational programs and classes in music, dance, drama, and art that are no longer than two hours in length;
  - b. library programs;
  - c. boys' and girls' clubs;
  - d. church-related activities;
  - e. scouting;
  - f. camping; or
  - g. community-youth programs;
4. informal arrangements among neighbors or relatives in their own homes, if the relative is limited to any of the following degrees of kinship by blood or marriage to the child being cared for or to the child's parent, child, grandchild, sibling, niece, nephew, aunt, uncle, or child of one's aunt or uncle;
5. drop-in supplementary child care operations for educational or recreational purposes where the parents are on the premises and the child receives such care infrequently;
6. drop-in supplementary child care operations in retail establishments where the parents are on the premises for retail shopping, if the operation does not charge a fee and does not refer to itself as a child day care center; or

7. religious educational activities a religious institution administers exclusively for children whose parents or legal guardians are members of such religious institution.

## **BACKGROUND**

### ***Ordinary Negligence and Gross Negligence***

Ordinary negligence is the failure to exercise such care as the great mass of mankind ordinarily exercises under the same or similar circumstances (57 Am. Jur. 2d Negligence, § 98). Gross negligence generally signifies more than ordinary inadvertence or inattention, but less than conscious indifference to consequences (*State v. Carty* 120 Conn 231; *Glorioso v. Police Dept. Of Town of Burlington*, 48 Conn. Supp. 1; *Prosser on Torts, Gross Negligence*).

### ***Willful and Wanton Negligence***

The usual meaning assigned to willful and wanton negligence is that the actor has intentionally done an act of unreasonable character, in disregard of a risk known to him or so obvious that he must be assumed to have been aware of it, and so great as to make it highly probable that harm would follow (*Second Restatement of Torts, Section 500; 57A Am. Jur 2d, Negligence §§ 271 & 272*). It is usually accompanied by such a conscious indifference to the consequences that it almost seemed the actor wanted them to follow. Willful or wanton negligence is an action or omission that amounts to an extreme departure from ordinary care, in a situation where a high degree of danger is apparent. Willful or wanton negligence must be more than mere thoughtlessness, inadvertence, or simple inattention.

### ***Related Laws***

The law immunizes from civil liability volunteers associated with, and employees of, certain nonprofit organizations who, under specified conditions, administer a cartridge injector to a child who apparently needs an injection. The nonprofit organizations, which cannot be licensed health care providers, must offer programs to children under age 17. Volunteers must have (1) been trained in using cartridge injectors by a licensed physician, physician assistant, registered nurse, or APRN and (2) obtained parental or guardian consent to use an injector on the child (CGS § 52-557b(e)).

If a trained volunteer or employee uses an injector on a child whose parent or guardian has consented and the child is injured or dies, the act immunizes both the volunteer and the nonprofit organization that trained him against civil damage claims by the child, parent, or guardian that arise from acts or omissions that constitute ordinary negligence. The immunity does not extend to acts or omissions that constitute gross, willful, or wanton negligence.

The law requires the public health commissioner to adopt regulations that specify that a licensed child day care center or group day care home:

1. may not deny services to a child on the basis of a known or suspected allergy or because he has a prescription for an automatic prefilled cartridge injector or similar automatic injectable equipment used to treat an allergic reaction, or for injectable equipment used to administer glucagon,
2. must, with three weeks after the child's enrollment, have staff trained in the use of such equipment on-site during all hours when the child is on-site,
3. must require the child's parent or guardian to provide the injector or injectable equipment and a copy of the prescription for the medication and injector or injectable equipment when the child is enrolled, and
4. must require a parent or guardian enrolling such a child to replace the medication and equipment before its expiration date (CGS § 19a-79; § 19a-79-9a Regulations of Conn. State Agencies).

### ***Legislative History***

On March 29, the House referred the bill to the Public Health Committee, which reported a substitute bill on April 4. The substitute bill limits the portion of the bill relating to day camps and day care facilities to day camps operated by a municipal agency and unlicensed day care facilities.

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 37    Nay 0

Public Health Committee

Joint Favorable Substitute

Yea 26    Nay 0