



# House of Representatives

**File No. 731**

General Assembly

January Session, 2005

**(Reprint of File No. 460)**

Substitute House Bill No. 6286  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 6, 2005

**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, or is an identified staff member of a before or  
12 after school program, day camp or day care facility as provided in  
13 section 2 of this act, renders emergency assistance by using a cartridge  
14 injector on another person in need thereof, shall not be liable to such  
15 person assisted for civil damages for any personal injuries which result

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

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

24 (1) "Before or after school program" means any educational or  
25 recreational program for children offered in any building or on the  
26 grounds of any school by a local or regional board of education or  
27 other municipal agency, or by a private provider, before or after  
28 regular school hours, or both, but does not include a program that is  
29 licensed by the Department of Public Health;

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

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

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

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

47 general statutes, or (3) an advanced practice registered nurse licensed  
 48 to prescribe in accordance with sections 20-94a and 20-94b of the  
 49 general statutes, the owner or operator of such before or after school  
 50 program, day camp or day care facility shall approve and provide  
 51 general supervision to an identified staff member trained to administer  
 52 medication with a cartridge injector to such child if the child has a  
 53 medically diagnosed allergic condition that may require prompt  
 54 treatment in order to protect the child against serious harm or death.  
 55 Such staff member shall be trained in the use of a cartridge injector by  
 56 a licensed physician, physician's assistant, advanced practice  
 57 registered nurse or registered nurse and shall complete a course in first  
 58 aid offered by the American Red Cross, the American Heart  
 59 Association, the National Ski Patrol, the Department of Public Health  
 60 or any director of health.

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

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:**

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

Note: GF=General Fund

#### **Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 06 \$</b>	<b>FY 07 \$</b>
All Municipalities	STATE MANDATE - Cost	Minimal	Minimal

### **Explanation**

The bill extends legal immunity to certain persons administering a cartridge injector to another person in an emergency situation. 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 is anticipated that the Department of Public Health will incur no additional costs to monitor compliance with the bill's requirements by child day care centers, group day care homes and licensed day camps.

This bill 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.

House "A" eliminates a provision of the bill that would have allowed DPH to adopt regulations. No fiscal impact is associated with removing this discretionary authority.

It also extends the legal immunity afforded persons rendering emergency assistance by using a cartridge injector to identified staff members of a before or after school program, day camp or day care facility. This may preclude additional future civil suits and thereby reduce the workload of the Judicial Department. Any such reduction is not expected to result in a fiscal impact.

The amendment also makes other clarifying changes that do not result in a fiscal impact.

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**OLR Bill Analysis**

sHB 6286 (as amended by House "A")\*

**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 (DPH), or any director of health.

\*House Amendment "A" extends the immunity to an identified staff member of a before- or after-school program, day camp, or daycare facility, trained to administer medication with a cartridge injector, eliminates the health commissioner's authority to adopt implementing regulations, and specifies that the definition of a before- or after-school program does not include a program that is licensed by DPH.

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.

The immunity also applies to an identifiable staff member selected by the owner or operator of a before or after school program, day camp, or daycare facility to administer medication with a cartridge injector who has received the training specified above (see BACKGROUND).

**REQUIREMENT FOR TRAINED STAFF MEMBER**

The requirement for a trained staff member in a before- or after-school program, day camp, or daycare 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- OR 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. The bill specifies that the definition does not include a program that DPH licenses.

**DAY CAMP**

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

**DAYCARE FACILITY**

The bill defines a “daycare facility” as an unlicensed child daycare center or group daycare 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 daycare 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 daycare center; or
7. religious educational activities a religious institution administers exclusively for children whose parents or legal guardians are members of the 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 daycare center or group daycare 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 daycare facilities to day camps operated by a municipal agency and unlicensed daycare facilities. On April 26, the House referred the bill to the Appropriations Committee, which reported it unchanged on May 2.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute  
Yea 37 Nay 0

Public Health Committee

Joint Favorable Substitute  
Yea 26 Nay 0

Appropriations Committee

Joint Favorable Report  
Yea 44 Nay 0