

No. 2004-187

AN ACT

HB 1113

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," providing for remittance of taxes as compensation for municipal services provided by a city of the second class; and directing school districts to establish policies regarding student possession and self-administration of certain asthma medications.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 652.1 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, amended June 25, 1982 (P.L.643, No.182), is amended to read:

Section 652.1. Taxing Power of Elected Board of Public Education of School Districts of the First Class A.—(a) The elected Board of Public Education in any school district of the first class A shall have authority to impose taxes for the purposes of such school district as follows:

(1) Without ordinance and under the following statutes their reenactments and amendments, at the rates fixed therein, namely:

(i) [Act of June 20, 1947 (P.L.745, No.320), (Mercantile License Tax)] (*Reserved*),

(ii) Act of June 20, 1947 (P.L.733, No.319), (Personal Property Tax),

(iii) Act of August 24, 1961 (P.L.1135, No.508), (Income Tax),

(iv) Real property tax acts:

Act of March 10, 1949 (P.L.30, No.14), 11.75 mills,

Act of November 30, 1955 (P.L.793, No.226), 1.5 mills,

Act of July 12, 1957 (P.L.837, No.386), .75 mills,

Act of November 19, 1959 (P.L.1552, No.557), 2 mills,

Act of October 21, 1965 (P.L.650, No.321), 1 mill,

Act of November 26, 1968 (P.L.1098, No.340), 6 mills,

Act of December 15, 1975 (P.L.483, No.143), 6 mills.

(2) (i) In addition to the taxing authority set forth in the act of August 24, 1961 (P.L.1135, No.508), (Income Tax), by ordinance, a tax of one per centum (1%) on wages, salaries, commissions and other earned income of individuals: Provided, however, That the total tax levied under the act of August 24, 1961 (P.L.1135, No.508) and the total tax levied under this subsection on wages, salaries, commissions and other earned income of individuals may equal but shall not exceed two per centum (2%).

(ii) *A school district of the first class A located in whole or in part within a city of the second class shall share the earned income tax under this section with such city of the second class as follows: in tax year 2007,*

one-tenth of one per centum (0.1%) to the city; in tax year 2008, two-tenths of one per centum (0.2%) to the city; in tax year 2009 and thereafter, one-quarter of one per centum (0.25%) to the city.

(3) In addition to the taxing authority set forth in the real property tax acts referred to in section 652.1(a)(1)(iv), by ordinance a tax, sufficient to meet the school district's anticipated expenses on each dollar of the total assessment of all property assessed and certified for taxation in the territory constituting the district.

(4) In addition thereto, by ordinance on any persons, transactions, occupations, privileges, subjects and real or personal property as they shall determine not prohibited by section 2 of the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act" and not specifically excluded under paragraph (5) hereof; even if the ordinance imposing such tax or taxes is duplicative of the taxes enumerated in section 652.1(a)(1); but no ordinance shall authorize the imposition of a tax on the wages, salary or net income of any person not a resident of such school district.

(5) No tax of any kind may be imposed on admission to places of amusement, athletic events, motion picture theaters, occupations or occupational privilege, gross receipts of businesses, including institutions and nonprofit services, and parking, but this paragraph shall not apply to taxes imposed on the whole volume of business transacted by retail and wholesale dealers in goods, wares and merchandise.

(b) Any ordinance authorizing a tax, other than under a statute and at the rate fixed thereby, shall fix the rate thereof and provide for the levy, assessment and collection of the same.

Section 2. Section 1401 of the act is amended by adding a clause to read:

Section 1401. Definitions.—As used in this article—

* * *

(12) "Asthma inhaler" means a prescribed device used for self-administration of short-acting, metered doses of prescribed medication to treat an acute asthma attack.

Section 3. The act is amended by adding a section to read:

Section 1414.1. Possession and Use of Asthma Inhalers.—(a) Each school entity shall develop a written policy to allow for the possession and self-administration by children of school age of an asthma inhaler and the prescribed medication to be administered thereby in a school setting.

(b) The policy under this section shall require a child of school age that desires to possess and self-administer an asthma inhaler in a school setting to demonstrate the capability for self-administration and for responsible behavior in the use thereof and to notify the school nurse immediately following each use of an asthma inhaler. The school entity shall develop a system whereby the child may verify to the school nurse that the child is capable of self-administration and has permission for carrying and taking the medication through the use of the asthma inhaler. The school entity

shall also restrict the availability of the asthma inhaler and the prescribed medication contained therein from other children of school age, with immediate confiscation of both the asthma inhaler and the medication and loss of privileges if the school policies are abused or ignored.

(c) The policy under this section may include the following:

(1) The requirement of a written statement from the physician, certified registered nurse practitioner or physician assistant that provides the name of the drug, the dose, the times when the medication is to be taken and the diagnosis or reason the medicine is needed unless the reason should remain confidential. The physician, certified registered nurse practitioner or physician assistant shall indicate the potential of any serious reaction that may occur to the medication, as well as any necessary emergency response. The physician, certified registered nurse practitioner or physician assistant shall state whether the child is qualified and able to self-administer the medication.

(2) The requirement of a written request from the parent or guardian that the school entity comply with the order of the physician, certified registered nurse practitioner or physician assistant. The parent's note shall include a statement relieving the school entity or any school employe of any responsibility for the benefits or consequences of the prescribed medication when it is parent-authorized and acknowledging that the school entity bears no responsibility for ensuring that the medication is taken.

(3) The ability of the school entity to reserve the right to require a statement from the physician, certified registered nurse practitioner or physician assistant for the continued use of any medication beyond a specified time period.

(d) As used in this section, "school entity" means a school district, intermediate unit or area vocational-technical school.

Section 4. The amendment of section 652.1 of the act shall apply to tax years commencing on or after January 1, 2005.

Section 5. This act shall take effect immediately.

APPROVED—The 30th day of November, A.D. 2004.

EDWARD G. RENDELL