



Senate Fiscal Agency  
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## BILL ANALYSIS



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House Bill 5379 (Substitute H-1 as reported without amendment)  
Sponsor: Representative Kevin Hertel  
House Committee: Education Reform  
Senate Committee: Education

**CONTENT**

The bill would amend the Revised School Code to allow a pupil of a public school or nonpublic school to use a U.S. Food and Drug Administration (FDA) approved, over-the-counter topical substance at school, if both of the following conditions were met:

- If the pupil were a minor, the pupil had written approval to possess and use the FDA substance from his or her parent or legal guardian.
- The principal or other chief administrator of the pupil's school had received a copy of the written approval, if any were required.

The bill specifies that "United States Food and Drug Administration approved, over-the-counter topical substance" would include sunscreen, antimicrobial or antifungal products, external analgesics including lidocaine, psoriasis or eczema topical treatments, or any other topical product with a therapeutic effect.

A school district, nonpublic school, school board member, director or officer of a nonpublic school, or employee of a school district or nonpublic school would not be liable for damages in a civil action for injury, death, or loss to person or property allegedly arising from a pupil being prohibited by an employee of the school or school district from using an FDA approved, over-the-counter topical substance because of the employee's reasonable belief, formed after a reasonable and ordinary inquiry, that the conditions listed above had not been satisfied. Such a person also would not be liable for damages arising from a pupil being permitted to use or possess an FDA approved, over-the-counter topical substance because of an employee's reasonable belief, formed after a reasonable and ordinary inquiry, that the conditions listed above had been satisfied.

MCL 380.1179

Legislative Analyst: Nathan Leaman

**FISCAL IMPACT**

The bill would have no fiscal impact on the Department of Education. The bill would add administrative costs to local units of government. Schools would have to process and track the written approval from a minor pupil's parent or guardian to use over-the-counter topical substances. The exact cost is unknown as schools would have different administrative processes for handling these written approvals.

Date Completed: 5-16-18

Fiscal Analyst: Cory Savino