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BILL ANALYSIS



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House Bill 5379 (Substitute H-1 as passed by the House)
Sponsor: Representative Kevin Hertel
House Committee: Education Reform
Senate Committee: Education

Date Completed: 5-7-18

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 certain conditions were met.

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.

Notwithstanding any school or school district policy to the contrary, a pupil of a public school or nonpublic school would be allowed to possess and use an FDA approved, over-the-counter topical substance at school, on school-sponsored transportation, or at any activity, event, or program sponsored by or in which the pupil's school was participating 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 approved, over-the counter topical 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.

A school district, nonpublic school, a 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.

A school district, nonpublic school, a 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 permitted by an employee of the school or school district to use or possess 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 been satisfied.

A principal or other chief administrator who was aware that a pupil was in possession of a

FDA approved, over-the-counter topical substance would be required to notify each of the pupil's classroom teachers of that fact and the provisions of the bill.

The bill would take effect 90 days after it was enacted.

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.

Fiscal Analyst: Cory Savino

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.