

**SUBSTITUTE FOR
HOUSE BILL NO. 5379**

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1179 (MCL 380.1179), as amended by 2013 PA 187.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1179. (1) If the conditions prescribed in subsection (2)
2 are met, notwithstanding any school or school district policy to
3 the contrary, a pupil of a public school or nonpublic school may
4 possess and use 1 or more of the following at school, on school-
5 sponsored transportation, or at any activity, event, or program
6 sponsored by or in which the pupil's school is participating:
- 7 (a) A metered dose inhaler or a dry powder inhaler to
8 alleviate asthmatic symptoms or for use before exercise to prevent
9 the onset of asthmatic symptoms.
- 10 (b) An epinephrine auto-injector or epinephrine inhaler to

1 treat anaphylaxis.

2 (2) Subsection (1) applies to a pupil if all of the following
3 conditions are met:

4 (a) The pupil has written approval to possess and use the
5 inhaler or epinephrine auto-injector as described in subsection (1)
6 from the pupil's physician or other health care provider authorized
7 by law to prescribe an inhaler or epinephrine auto-injector and, if
8 the pupil is a minor, from the pupil's parent or legal guardian.

9 (b) The principal or other chief administrator of the pupil's
10 school has received a copy of each written approval required under
11 subdivision (a) for the pupil.

12 (c) There is on file at the pupil's school a written emergency
13 care plan that contains specific instructions for the pupil's
14 needs, that is prepared by a physician licensed in this state in
15 collaboration with the pupil and the pupil's parent or legal
16 guardian, and that is updated as necessary for changing
17 circumstances.

18 **(3) NOTWITHSTANDING ANY SCHOOL OR SCHOOL DISTRICT POLICY TO**
19 **THE CONTRARY, A PUPIL OF A PUBLIC SCHOOL OR NONPUBLIC SCHOOL MAY**
20 **POSSESS AND USE A UNITED STATES FOOD AND DRUG ADMINISTRATION**
21 **APPROVED, OVER-THE-COUNTER TOPICAL SUBSTANCE AT SCHOOL, ON SCHOOL-**
22 **SPONSORED TRANSPORTATION, OR AT ANY ACTIVITY, EVENT, OR PROGRAM**
23 **SPONSORED BY OR IN WHICH THE PUPIL'S SCHOOL IS PARTICIPATING IF ALL**
24 **OF THE FOLLOWING CONDITIONS ARE MET:**

25 **(A) IF THE PUPIL IS A MINOR, THE PUPIL HAS WRITTEN APPROVAL TO**
26 **POSSESS AND USE THE UNITED STATES FOOD AND DRUG ADMINISTRATION**
27 **APPROVED, OVER-THE-COUNTER TOPICAL SUBSTANCE FROM THE PUPIL'S**

1 PARENT OR LEGAL GUARDIAN.

2 (B) THE PRINCIPAL OR OTHER CHIEF ADMINISTRATOR OF THE PUPIL'S
3 SCHOOL HAS RECEIVED A COPY OF THE WRITTEN APPROVAL REQUIRED UNDER
4 SUBDIVISION (A), IF ANY, FOR THE PUPIL.

5 (4) ~~(3)~~—A school district, nonpublic school, member of a
6 school board, director or officer of a nonpublic school, or
7 employee of a school district or nonpublic school is not liable for
8 damages in a civil action for injury, death, or loss to person or
9 property allegedly arising from a pupil being prohibited by an
10 employee of the school or school district from using **A UNITED**
11 **STATES FOOD AND DRUG ADMINISTRATION APPROVED, OVER-THE-COUNTER**
12 **TOPICAL SUBSTANCE**, an inhaler, or **AN** epinephrine auto-injector
13 because of the employee's reasonable belief formed after a
14 reasonable and ordinary inquiry that the conditions prescribed in
15 subsection (2) **OR (3), AS APPLICABLE**, had not been satisfied. A
16 school district, nonpublic school, member of a school board,
17 director or officer of a nonpublic school, or employee of a school
18 district or nonpublic school is not liable for damages in a civil
19 action for injury, death, or loss to person or property allegedly
20 arising from a pupil being permitted by an employee of the school
21 or school district to use or possess **A UNITED STATES FOOD AND DRUG**
22 **ADMINISTRATION APPROVED, OVER-THE-COUNTER TOPICAL SUBSTANCE**, an
23 inhaler, or **AN** epinephrine auto-injector because of the employee's
24 reasonable belief formed after a reasonable and ordinary inquiry
25 that the conditions prescribed in subsection (2) **OR (3), AS**
26 **APPLICABLE**, had been satisfied. This subsection does not eliminate,
27 limit, or reduce any other immunity or defense that a school

1 district, nonpublic school, member of a school board, director or
2 officer of a nonpublic school, or employee of a school district or
3 nonpublic school may have under section 1178 or other state law.

4 (5) ~~(4)~~—As part of its general powers, a school district may
5 request a pupil's parent or legal guardian to provide an extra
6 inhaler or epinephrine auto-injector to designated school personnel
7 for use in case of emergency. A parent or legal guardian is not
8 required to provide an extra inhaler or epinephrine auto-injector
9 to school personnel.

10 (6) ~~(5)~~—A principal or other chief administrator who is aware
11 that a pupil is in possession of **A UNITED STATES FOOD AND DRUG**
12 **ADMINISTRATION APPROVED, OVER-THE-COUNTER TOPICAL SUBSTANCE**, an
13 inhaler, or **AN** epinephrine auto-injector pursuant to this section
14 shall notify each of the pupil's classroom teachers of that fact
15 and of the provisions of this section.

16 (7) ~~(6)~~—As used in this section and in section 1179a:

17 (a) "School board" includes a school board, intermediate
18 school board, or the board of directors of a public school academy.

19 (b) "School district" includes a school district, intermediate
20 school district, or public school academy.

21 (c) **"UNITED STATES FOOD AND DRUG ADMINISTRATION APPROVED,**
22 **OVER-THE-COUNTER TOPICAL SUBSTANCE" INCLUDES, BUT IS NOT LIMITED**
23 **TO, SUNSCREEN, ANTIMICROBIAL OR ANTIFUNGAL PRODUCTS, EXTERNAL**
24 **ANALGESICS INCLUDING LIDOCAINE, PSORIASIS OR ECZEMA TOPICAL**
25 **TREATMENTS, OR ANY OTHER TOPICAL PRODUCT WITH A THERAPEUTIC EFFECT.**

26 Enacting section 1. This amendatory act takes effect 90 days
27 after the date it is enacted into law.