

Act No. 243  
Public Acts of 2018  
Approved by the Governor  
June 27, 2018  
Filed with the Secretary of State  
June 28, 2018  
EFFECTIVE DATE: September 26, 2018

**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2018**

**Introduced by Reps. Hertel, Sowerby, Chirkun, Dianda, Cochran, Yanez, Sabo, Zemke, Elder, Kelly, Lasinski, Wittenberg, Marino, Ellison, Gay-Dagnogo and Howrylak**

# **ENROLLED HOUSE BILL No. 5379**

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to make appropriations for certain purposes; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,” by amending section 1179 (MCL 380.1179), as amended by 2013 PA 187.

*The People of the State of Michigan enact:*

Sec. 1179. (1) If the conditions prescribed in subsection (2) are met, notwithstanding any school or school district policy to the contrary, a pupil of a public school or nonpublic school may possess and use 1 or more of the following at school, on school-sponsored transportation, or at any activity, event, or program sponsored by or in which the pupil's school is participating:

(a) A metered dose inhaler or a dry powder inhaler to alleviate asthmatic symptoms or for use before exercise to prevent the onset of asthmatic symptoms.

(b) An epinephrine auto-injector or epinephrine inhaler to treat anaphylaxis.

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

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

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

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

(3) Notwithstanding any school or school district policy to the contrary, a pupil of a public school or nonpublic school may possess and use a United States Food and Drug Administration 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 is participating if all of the following conditions are met:

(a) If the pupil is a minor, the pupil has written approval to possess and use the United States Food and Drug Administration approved, over-the-counter topical substance from the pupil's parent or legal guardian.

(b) The principal or other chief administrator of the pupil's school has received a copy of the written approval required under subdivision (a), if any, for the pupil.

(4) A school district, nonpublic school, member of a school board, director or officer of a nonpublic school, or employee of a school district or nonpublic school is not 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 a United States Food and Drug Administration approved, over-the-counter topical substance, an inhaler, or an epinephrine auto-injector because of the employee's reasonable belief formed after a reasonable and ordinary inquiry that the conditions prescribed in subsection (2) or (3), as applicable, had not been satisfied. A school district, nonpublic school, member of a school board, director or officer of a nonpublic school, or employee of a school district or nonpublic school is not 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 a United States Food and Drug Administration approved, over-the-counter topical substance, an inhaler, or an epinephrine auto-injector because of the employee's reasonable belief formed after a reasonable and ordinary inquiry that the conditions prescribed in subsection (2) or (3), as applicable, had been satisfied. This subsection does not eliminate, limit, or reduce any other immunity or defense that a school district, nonpublic school, member of a school board, director or officer of a nonpublic school, or employee of a school district or nonpublic school may have under section 1178 or other state law.

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

(6) A principal or other chief administrator who is aware that a pupil is in possession of a United States Food and Drug Administration approved, over-the-counter topical substance, an inhaler, or an epinephrine auto-injector pursuant to this section shall notify each of the pupil's classroom teachers of that fact and of the provisions of this section.

(7) As used in this section and in section 1179a:

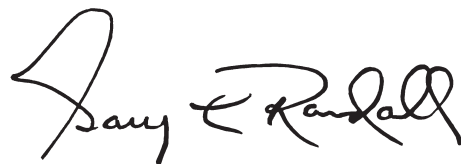
(a) "School board" includes a school board, intermediate school board, or the board of directors of a public school academy.

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

(c) "United States Food and Drug Administration approved, over-the-counter topical substance" includes, but is not limited to, sunscreen, antimicrobial or antifungal products, external analgesics including lidocaine, psoriasis or eczema topical treatments, or any other topical product with a therapeutic effect.

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

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor