

**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.