

# HOUSE BILL No. 5379

January 10, 2018, Introduced by Reps. Hertel, Sowerby, Chirkun, Dianda, Cochran, Yanez, Sabo, Zemke, Elder, Kelly, Lasinski, Wittenberg, Marino, Ellison, Gay-Dagnogo and Howrylak and referred to the Committee on Education Reform.

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 SUNSCREEN AT SCHOOL, ON SCHOOL-SPONSORED**  
21 **TRANSPORTATION, OR AT ANY ACTIVITY, EVENT, OR PROGRAM SPONSORED BY**  
22 **OR IN WHICH THE PUPIL'S SCHOOL IS PARTICIPATING IF ALL OF THE**  
23 **FOLLOWING CONDITIONS ARE MET:**

24 **(A) IF THE PUPIL IS A MINOR, THE PUPIL HAS WRITTEN APPROVAL TO**  
25 **POSSESS AND USE THE SUNSCREEN FROM THE PUPIL'S PARENT OR LEGAL**  
26 **GUARDIAN.**

27 **(B) THE PRINCIPAL OR OTHER CHIEF ADMINISTRATOR OF THE PUPIL'S**

1 SCHOOL HAS RECEIVED A COPY OF THE WRITTEN APPROVAL REQUIRED UNDER  
2 SUBDIVISION (A), IF ANY, FOR THE PUPIL.

3 (4) ~~(3)~~—A school district, nonpublic school, member of a  
4 school board, director or officer of a nonpublic school, or  
5 employee of a school district or nonpublic school is not liable for  
6 damages in a civil action for injury, death, or loss to person or  
7 property allegedly arising from a pupil being prohibited by an  
8 employee of the school or school district from using **SUNSCREEN**, an  
9 inhaler, or **AN** epinephrine auto-injector because of the employee's  
10 reasonable belief formed after a reasonable and ordinary inquiry  
11 that the conditions prescribed in subsection (2) **OR (3), AS**  
12 **APPLICABLE**, had not been satisfied. A school district, nonpublic  
13 school, member of a school board, director or officer of a  
14 nonpublic school, or employee of a school district or nonpublic  
15 school is not liable for damages in a civil action for injury,  
16 death, or loss to person or property allegedly arising from a pupil  
17 being permitted by an employee of the school or school district to  
18 use or possess **SUNSCREEN**, an inhaler, or **AN** epinephrine auto-  
19 injector because of the employee's reasonable belief formed after a  
20 reasonable and ordinary inquiry that the conditions prescribed in  
21 subsection (2) **OR (3), AS APPLICABLE**, had been satisfied. This  
22 subsection does not eliminate, limit, or reduce any other immunity  
23 or defense that a school district, nonpublic school, member of a  
24 school board, director or officer of a nonpublic school, or  
25 employee of a school district or nonpublic school may have under  
26 section 1178 or other state law.

27 (5) ~~(4)~~—As part of its general powers, a school district may

1 request a pupil's parent or legal guardian to provide an extra  
2 inhaler or epinephrine auto-injector to designated school personnel  
3 for use in case of emergency. A parent or legal guardian is not  
4 required to provide an extra inhaler or epinephrine auto-injector  
5 to school personnel.

6 (6) ~~(5)~~—A principal or other chief administrator who is aware  
7 that a pupil is in possession of **SUNSCREEN**, an inhaler, or **AN**  
8 epinephrine auto-injector pursuant to this section shall notify  
9 each of the pupil's classroom teachers of that fact and of the  
10 provisions of this section.

11 (7) ~~(6)~~—As used in this section and in section 1179a:

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

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

16 (C) **"SUNSCREEN" MEANS A LOTION THAT IS APPROVED BY THE UNITED**  
17 **STATES FOOD AND DRUG ADMINISTRATION FOR THE PURPOSE OF ABSORBING OR**  
18 **REFLECTING SOME OF THE SUN'S ULTRAVIOLET RADIATION ON THE SKIN**  
19 **EXPOSED TO SUNLIGHT AND SO HELPS PROTECT AGAINST THE SUN. A LOTION**  
20 **THAT IS IN AN AEROSOL FORM OR USED FOR A DIFFERENT PURPOSE,**  
21 **INCLUDING, BUT NOT LIMITED TO, THE MEDICAL TREATMENT OF AN INJURY**  
22 **OR ILLNESS, IS NOT CONSIDERED SUNSCREEN.**

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