

HOUSE BILL No. 5593

February 20, 2018, Introduced by Reps. Tedder, Howrylak and Canfield and referred to the Committee on Health Policy.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 1178, 1179, and 1179a (MCL 380.1178, 380.1179,
and 380.1179a), section 1178 as amended by 2016 PA 385 and section
1179 as amended and section 1179a as added by 2013 PA 187.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1178. (1) Subject to subsection (2), a school
2 administrator, teacher, or other school employee designated by the
3 school administrator, who in good faith administers medication to a
4 pupil in the presence of another adult or in an emergency that
5 threatens the life or health of the pupil, pursuant to written
6 permission of the pupil's parent or guardian, and in compliance
7 with the instructions of a physician, physician's assistant, or
8 certified nurse practitioner, or a school employee who in good
9 faith administers ~~an epinephrine auto-injector~~ to an individual

1 consistent with the policies under section 1179a or in good faith
2 administers an opioid antagonist to an individual consistent with
3 the policies under section 1179b, is not liable in a criminal
4 action or for civil damages as a result of an act or omission in
5 the administration of the medication, epinephrine, ~~auto-injector,~~
6 or opioid antagonist, except for an act or omission amounting to
7 gross negligence or willful and wanton misconduct.

8 (2) If a school employee is a licensed registered professional
9 nurse, subsection (1) applies to that school employee regardless of
10 whether the medication, epinephrine, ~~auto-injector,~~ or opioid
11 antagonist is administered in the presence of another adult.

12 (3) A school district, nonpublic school, member of a school
13 board, or director or officer of a nonpublic school is not liable
14 for damages in a civil action for injury, death, or loss to person
15 or property allegedly arising from a person acting under this
16 section.

17 Sec. 1179. (1) If the conditions prescribed in subsection (2)
18 are met, 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 1 or more of the following at school, on school-
21 sponsored transportation, or at any activity, event, or program
22 sponsored by or in which the pupil's school is participating:

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

26 (b) ~~An epinephrine auto-injector or epinephrine inhaler~~
27 **EPINEPHRINE** to treat anaphylaxis.

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

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

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

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

17 (3) A school district, nonpublic school, member of a school
18 board, director or officer of a nonpublic school, or employee of a
19 school district or nonpublic school is not liable for damages in a
20 civil action for injury, death, or loss to person or property
21 allegedly arising from a pupil being prohibited by an employee of
22 the school or school district from using an inhaler or epinephrine
23 ~~auto-injector~~ because of the employee's reasonable belief formed
24 after a reasonable and ordinary inquiry that the conditions
25 prescribed in subsection (2) had not been satisfied. A school
26 district, nonpublic school, member of a school board, director or
27 officer of a nonpublic school, or employee of a school district or

1 nonpublic school is not liable for damages in a civil action for
2 injury, death, or loss to person or property allegedly arising from
3 a pupil being permitted by an employee of the school or school
4 district to use or possess an inhaler or epinephrine ~~auto-injector~~
5 because of the employee's reasonable belief formed after a
6 reasonable and ordinary inquiry that the conditions prescribed in
7 subsection (2) had been satisfied. This subsection does not
8 eliminate, limit, or reduce any other immunity or defense that a
9 school district, nonpublic school, member of a school board,
10 director or officer of a nonpublic school, or employee of a school
11 district or nonpublic school may have under section 1178 or other
12 state law.

13 (4) As part of its general powers, a school district may
14 request a pupil's parent or legal guardian to provide an extra
15 inhaler or **EXTRA** epinephrine ~~auto-injector~~ to designated school
16 personnel for use in case of emergency. A parent or legal guardian
17 is not required to provide an extra inhaler or **EXTRA** epinephrine
18 ~~auto-injector~~ to school personnel.

19 (5) A principal or other chief administrator who is aware that
20 a pupil is in possession of an inhaler or epinephrine ~~auto-injector~~
21 pursuant to this section shall notify each of the pupil's classroom
22 teachers of that fact and of the provisions of this section.

23 (6) As used in this section and in section 1179a:

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

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

1 Sec. 1179a. (1) Beginning with the 2014-2015 school year, a
2 school board shall ensure that, in each school it operates with an
3 instructional and administrative staff of at least 10, there are at
4 least 2 employees at the school who have been trained in the
5 appropriate use and administration of ~~an epinephrine auto-injector~~
6 and that, in each school it operates with an instructional and
7 administrative staff of fewer than 10, there is at least 1 employee
8 at the school who has been trained in the appropriate use and
9 administration of ~~an epinephrine. auto-injector.~~ The training
10 required under this subsection ~~shall~~ **MUST** be conducted under the
11 supervision of, and ~~shall~~ **MUST** include evaluation by, a licensed
12 registered professional nurse.

13 (2) Not later than the beginning of the 2014-2015 school year,
14 a school board shall develop and implement policies that are
15 consistent with the department's medication administration
16 guidelines, as revised under subsection (4), and that provide for
17 the possession of at least 2 **DOSES OF** epinephrine ~~auto-injectors~~ in
18 each school operated by the school board to be used for
19 administration by a licensed registered professional nurse who is
20 employed or contracted by the school district or by a school
21 employee who is trained in the administration of ~~an epinephrine~~
22 ~~auto-injector~~ under subsection (1) and is authorized to administer
23 ~~an epinephrine auto-injector~~ under the policies. The policies ~~shall~~
24 **MUST** authorize a licensed registered professional nurse who is
25 employed or contracted by the school district or a school employee
26 who is trained in the administration of ~~an epinephrine auto-~~
27 ~~injector~~ under subsection (1) to administer ~~an epinephrine auto-~~

~~injector~~ to a pupil who has a prescription on file at the school.
 The policies also ~~shall~~ **MUST** authorize a licensed registered
 professional nurse who is employed or contracted by the school
 district or a school employee who is trained in the administration
 of ~~an epinephrine auto-injector~~ under subsection (1) to administer
~~an epinephrine auto-injector~~ to any other individual on school
 grounds who is believed to be having an anaphylactic reaction. The
 policies also ~~shall~~ **MUST** require notification to the parent or
 legal guardian of a pupil to whom ~~an epinephrine auto-injector~~ has
 been administered.

(3) A licensed registered professional nurse who is employed
 or contracted by the school district or a school employee who is
 trained in the administration of ~~an epinephrine auto-injector~~ under
 subsection (1) may possess and administer ~~an epinephrine. auto-~~
~~injector.~~

(4) The department, in conjunction with the department of
~~community health~~ **AND HUMAN SERVICES** and with input from the
~~Michigan association~~ **ASSOCIATION** of ~~school nurses,~~ **SCHOOL NURSES,**
~~the Michigan nurses association,~~ **NURSES ASSOCIATION,** the Michigan
~~parent teacher association,~~ **PARENT TEACHER ASSOCIATION,** the
~~American college~~ **COLLEGE** of ~~allergy, asthma, and immunology,~~
ALLERGY, ASTHMA, AND IMMUNOLOGY, the Michigan chapter of the
~~American academy~~ **ACADEMY** of ~~pediatrics,~~ **PEDIATRICS,** the ~~school-~~
~~community health alliance~~ **SCHOOL-COMMUNITY HEALTH ALLIANCE** of
 Michigan, and other school health organizations and entities, shall
 identify, develop, and adopt appropriate revisions to the
 medication administration guidelines issued by the department,

1 including, but not limited to, those relating to the specification
2 of training needs and requirements for the administration and
3 maintenance of stock epinephrine, ~~auto-injectors,~~ including
4 stocking of both junior and regular ~~dose~~ **DOSES OF** epinephrine,
5 ~~auto-injectors,~~ as necessary, and storage requirements.

6 (5) At least annually, a school district shall report to the
7 department, in the form and manner prescribed by the department,
8 all instances of administration of ~~an epinephrine auto-injector to~~
9 a pupil at school. The reporting ~~shall~~ **MUST** include at least all of
10 the following:

11 (a) The number of instances of administration of ~~an~~
12 epinephrine ~~auto-injector to~~ a pupil at school in a school year.

13 (b) The number of pupils who were administered ~~an epinephrine~~
14 ~~auto-injector at school~~ who were not previously known to be
15 severely allergic.

16 (c) The number of pupils who were administered ~~an epinephrine~~
17 ~~auto-injector at school~~ using the school's stock of epinephrine.
18 ~~auto-injectors.~~

19 (6) A school board shall attempt to obtain funding or
20 resources from private sources, or from another source other than
21 this state, for fulfilling the requirements of this section. If a
22 school board is unable to obtain this alternative funding for all
23 or part of its costs of complying with this section, the school
24 board may apply to the department for reimbursement for the
25 unfunded costs of complying with this section, in the form and
26 manner prescribed by the department. The legislature shall
27 appropriate funds for making this reimbursement. The department

1 shall make the reimbursement according to the appropriation that is
2 made for this purpose. The department annually shall submit a
3 report to the legislature detailing the number of school boards
4 that apply for reimbursement and the number of school boards that
5 are able to secure alternative funding.

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

8 Enacting section 2. This amendatory act does not take effect
9 unless Senate Bill No. _____ or House Bill No. 5592 (request no.
10 05369'18) of the 99th Legislature is enacted into law.