

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Reps. Lyons, Graves, Haines, Walsh and Lipton

ENROLLED HOUSE BILL No. 4353

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 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 sections 1178 and 1179 (MCL 380.1178 and 380.1179), section 1178 as amended by 2006 PA 48 and section 1179 as amended by 2004 PA 73, and by adding section 1179a.

The People of the State of Michigan enact:

Sec. 1178. (1) Subject to subsection (2), a school administrator, teacher, or other school employee designated by the school administrator, who in good faith administers medication to a pupil in the presence of another adult or in an emergency that threatens the life or health of the pupil, pursuant to written permission of the pupil’s parent or guardian, and in compliance with the instructions of a physician, physician’s assistant, or certified nurse practitioner, or a school employee who in good faith administers an epinephrine auto-injector to an individual consistent with the policies under section 1179a, is not liable in a criminal action or for civil damages as a result of an act or omission in the administration of the medication or epinephrine auto-injector, except for an act or omission amounting to gross negligence or willful and wanton misconduct.

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

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

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) 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 an inhaler or epinephrine auto-injector because of the employee's reasonable belief formed after a reasonable and ordinary inquiry that the conditions prescribed in subsection (2) 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 an inhaler or epinephrine auto-injector because of the employee's reasonable belief formed after a reasonable and ordinary inquiry that the conditions prescribed in subsection (2) 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.

(4) 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.

(5) A principal or other chief administrator who is aware that a pupil is in possession of an inhaler or 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.

(6) 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.

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

(2) Not later than the beginning of the 2014-2015 school year, a school board shall develop and implement policies that are consistent with the department's medication administration guidelines, as revised under subsection (4), and that provide for the possession of at least 2 epinephrine auto-injectors in each school operated by the school board to be used for administration by a licensed registered professional nurse who is employed or contracted by the school district or by a school employee who is trained in the administration of an epinephrine auto-injector under subsection (1) and is authorized to administer an epinephrine auto-injector under the policies. The policies shall 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 a pupil who has a prescription on file at the school. The policies also shall 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 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 with input from the Michigan association of school nurses, the Michigan nurses association, the Michigan parent teacher association, the American college of allergy, asthma, and immunology, the Michigan chapter of the American academy of pediatrics, the

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, including, but not limited to, those relating to the specification of training needs and requirements for the administration and maintenance of stock epinephrine auto-injectors, including stocking of both junior and regular dose epinephrine auto-injectors, as necessary, and storage requirements.

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

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

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

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

(6) A school board shall attempt to obtain funding or resources from private sources, or from another source other than this state, for fulfilling the requirements of this section. If a school board is unable to obtain this alternative funding for all or part of its costs of complying with this section, the school board may apply to the department for reimbursement for the unfunded costs of complying with this section, in the form and manner prescribed by the department. The legislature shall appropriate funds for making this reimbursement. The department shall make the reimbursement according to the appropriation that is made for this purpose. The department annually shall submit a report to the legislature detailing the number of school boards that apply for reimbursement and the number of school boards that are able to secure alternative funding.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor