

HOUSE BILL No. 5865

September 11, 2012, Introduced by Rep. Lyons and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
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:

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

1 **FAITH ADMINISTERS AN EPINEPHRINE AUTO-INJECTOR TO A PUPIL**

2 **CONSISTENT WITH THE POLICIES UNDER SECTION 1179A**, is not liable in
3 a criminal action or for civil damages as a result of an act or
4 omission in the administration of the medication **OR EPINEPHRINE**
5 **AUTO-INJECTOR**, except for an act or omission amounting to gross
6 negligence or willful and wanton misconduct.

7 (2) If a school employee is a licensed registered professional
8 nurse, subsection (1) applies to that school employee regardless of
9 whether the medication **OR EPINEPHRINE AUTO-INJECTOR** is administered
10 in the presence of another adult.

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

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

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

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

24 (a) The pupil has written approval to possess and use the
25 inhaler or epinephrine auto-injector as described in subsection (1)
26 from the pupil's physician or other health care provider authorized
27 by law to prescribe an inhaler or epinephrine auto-injector and, if

1 the pupil is a minor, from the pupil's parent or legal guardian.

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

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

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

1 subsection (2) had been satisfied. This subsection does not
2 eliminate, limit, or reduce any other immunity or defense that a
3 school district, nonpublic school, member of a school board,
4 director or officer of a nonpublic school, or employee of a school
5 district or nonpublic school may have under section 1178 or other
6 state law.

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

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

17 (6) As used in this section **AND IN SECTION 1179A:**

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

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

22 **SEC. 1179A. (1) A SCHOOL BOARD SHALL ENSURE THAT, IN EACH**
23 **SCHOOL IT OPERATES WITH AN INSTRUCTIONAL AND ADMINISTRATIVE STAFF**
24 **OF AT LEAST 10, THERE ARE AT LEAST 2 EMPLOYEES AT THE SCHOOL WHO**
25 **HAVE BEEN TRAINED IN THE ADMINISTRATION OF AN EPINEPHRINE AUTO-**
26 **INJECTOR AND THAT, IN EACH SCHOOL IT OPERATES WITH AN INSTRUCTIONAL**
27 **AND ADMINISTRATIVE STAFF OF FEWER THAN 10, THERE IS AT LEAST 1**

1 EMPLOYEE AT THE SCHOOL WHO HAS BEEN TRAINED IN THE ADMINISTRATION
2 OF AN EPINEPHRINE AUTO-INJECTOR.

3 (2) A SCHOOL BOARD SHALL DEVELOP AND IMPLEMENT POLICIES THAT
4 PROVIDE FOR THE POSSESSION OF AT LEAST 2 EPINEPHRINE AUTO-INJECTORS
5 IN EACH SCHOOL OPERATED BY THE SCHOOL BOARD TO BE USED FOR
6 ADMINISTRATION BY A SCHOOL EMPLOYEE WHO IS A LICENSED REGISTERED
7 PROFESSIONAL NURSE OR BY A SCHOOL EMPLOYEE WHO IS TRAINED IN THE
8 ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR UNDER SUBSECTION (1)
9 AND IS AUTHORIZED TO ADMINISTER AN EPINEPHRINE AUTO-INJECTOR UNDER
10 THE POLICIES. THE POLICIES SHALL AUTHORIZE A SCHOOL EMPLOYEE WHO IS
11 A LICENSED REGISTERED PROFESSIONAL NURSE OR WHO IS TRAINED IN THE
12 ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR UNDER SUBSECTION (1)
13 TO ADMINISTER AN EPINEPHRINE AUTO-INJECTOR TO A PUPIL WHO HAS A
14 PRESCRIPTION ON FILE AT THE SCHOOL. THE POLICIES ALSO SHALL
15 AUTHORIZE A SCHOOL EMPLOYEE WHO IS A LICENSED REGISTERED
16 PROFESSIONAL NURSE OR WHO IS TRAINED IN THE ADMINISTRATION OF AN
17 EPINEPHRINE AUTO-INJECTOR UNDER SUBSECTION (1) TO ADMINISTER AN
18 EPINEPHRINE AUTO-INJECTOR TO ANY OTHER PUPIL WHO IS BELIEVED TO BE
19 HAVING AN ANAPHYLACTIC REACTION.

20 (3) A SCHOOL EMPLOYEE WHO IS A LICENSED REGISTERED
21 PROFESSIONAL NURSE OR WHO IS TRAINED IN THE ADMINISTRATION OF AN
22 EPINEPHRINE AUTO-INJECTOR UNDER SUBSECTION (1) MAY POSSESS AND
23 ADMINISTER AN EPINEPHRINE AUTO-INJECTOR.