

2000 PUBLIC AND LOCAL ACTS

[No. 10]

(SB 631)

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, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; 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," (MCL 380.1 to 380.1852) by adding section 1179.

The People of the State of Michigan enact:

380.1179 Use of inhaler permitted; conditions; liability; extra inhaler; notice to classroom teachers; definitions. [M.S.A. 15.41179]

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 a metered dose inhaler or a dry powder inhaler to alleviate asthmatic symptoms, or before exercise to prevent the onset of asthmatic symptoms, at school, on school-sponsored transportation, or at any activity, event, or program sponsored by or in which the pupil's school is participating.

(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 as described in subsection (1) from the pupil's physician or other health care provider authorized by law to prescribe an inhaler 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.

(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 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 an inhaler 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.

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(4) As part of its general powers, a school district may request a pupil's parent or legal guardian to provide an extra inhaler to designated school personnel for use in case of emergency. A parent or legal guardian is not required to provide an extra inhaler to school personnel.

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

(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.

This act is ordered to take immediate effect.

Approved March 7, 2000.

Filed with Secretary of State March 7, 2000.
