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## BILL ANALYSIS



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Senate Bill 417 & 418 (as introduced 8-20-19)  
Sponsor: Senator Peter J. Lucido (S.B. 417)  
Senator Michael D. MacDonald (S.B. 418)  
Committee: Health Policy and Human Services

Date Completed: 2-20-20

**CONTENT**

**Senate Bill 418 would enact the "Law Enforcement and Firefighter Access to Epinephrine Act" to do the following:**

- **Allow a law enforcement agency or organized fire department to purchase or possess auto-injectable epinephrine and allow the entity to distribute it to law enforcement officers or firefighters in its employ.**
- **Require an individual to complete training on the proper administration of auto-injectable epinephrine before administering auto-injectable epinephrine.**
- **Specify that any law enforcement officer or firefighter who possessed or in good faith administered auto-injectable epinephrine would be immune from civil liability for injuries or damages arising out of the administration of auto-injectable epinephrine to any individual if the conduct did not amount to gross negligence.**
- **Specify that an eligible entity that purchased, possessed, or distributed auto-injectable epinephrine under the bill and any law enforcement officer or firefighter who possessed or administered auto-injectable epinephrine under the bill would not be subject to criminal prosecution.**

**Senate Bill 417 would amend the Public Health Code to allow a prescriber to issue a prescription for and a dispensing prescriber or pharmacist to dispense auto-injectable epinephrine to an eligible entity authorized to purchase, possess, and distribute auto-injectable epinephrine under the proposed Law Enforcement and Firefighter Access to Epinephrine Act.**

The bills are tie-barred.

**Senate Bill 418****Definitions**

"Eligible entity" would mean a law enforcement agency or organized fire department that is prescribed auto-injectable epinephrine.

"Law enforcement agency" would mean that term as defined in Section 2 of the Michigan Commission on Law Enforcement Standards Act: an entity that is established and maintained in accordance with the laws of the State and is authorized by the laws of the State to appoint or employ law enforcement officers.

"Organized fire department" would mean that term as defined in Section 1 of the Fire Prevention Code: a department, authority, or other governmental entity that safeguards life and property from damage from explosion, fire, or disaster and that provides fire suppression and other related services in the State. The term includes any lawfully organized firefighting force in Michigan.

"Law enforcement officer" would mean that term as defined in the Michigan Commission on Law Enforcement Standards Act.

"Firefighter" would mean that term as defined in Section 1 of the Fire Prevention Code: a member of an organized fire department, including a volunteer member or a member paid on call, who is responsible for, or is in a capacity that includes responsibility for, the extinguishment of fires, the directing of the extinguishment of fires, the prevention and detection of fires, and the enforcement of the general fire laws of this state. Firefighter does not include a person whose job description, duties, or responsibilities do not include direct involvement in fire suppression.

#### Purchase and Possession of Epinephrine

Under the bill, an eligible entity could purchase and possess auto-injectable epinephrine for purposes of the Act and could distribute auto-injectable epinephrine to law enforcement officers or firefighters in its employ who had been trained in the administration of auto-injectable epinephrine as described below.

The bill would require an individual to complete training on the proper administration of auto-injectable epinephrine before administering auto-injectable epinephrine under the bill. If a law enforcement officer or firefighter had completed the training, he or she could administer auto-injectable epinephrine to an individual who the law enforcement officer or firefighter had reason to believe was experiencing anaphylaxis, regardless of whether the individual had a prescription for epinephrine or had been diagnosed previously with an allergy.

#### Civil and Criminal Liability

An eligible entity that purchased, stored, or provided to a law enforcement officer or firefighter auto-injectable epinephrine for use under the Act and a law enforcement officer or firefighter who possessed or in good faith administered auto-injectable epinephrine under the Act would be immune from civil liability for injuries or damages arising out of the administration of that auto-injectable epinephrine to any individual if the conduct did not amount to gross negligence that was the proximate cause of injury or damage. "Gross negligence" would mean that terms as defined in Section 7 of Public Act 170 of 1964: conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

An eligible entity that purchased, possessed, or distributed auto-injectable epinephrine and a law enforcement officer or firefighter who possessed or administered auto-injectable epinephrine under the bill would not be subject to criminal prosecution for purchasing, possessing, or distributing auto-injectable epinephrine, or administering auto-injectable epinephrine to an individual under the Act.

### **Senate Bill 417**

Under the Public Health Code, notwithstanding any provision of the Code to the contrary, a prescriber may issue a prescription for and a dispensing prescriber or pharmacist may

dispense auto-injectable epinephrine to an authorized entity. "Authorized entity" means any of the following:

- A school board for the purpose of meeting certain requirements of the Revised School Code.
- A person or governmental entity that operates or conducts a business or activity at which allergens capable of causing anaphylaxis may be present, including, a recreation camp, youth sports league, amusement park, nonpublic school, religious institution, or sports arena.

Under the bill, "authorized entity" also would mean an eligible entity authorized to purchase, possess, and distribute auto-injectable epinephrine under the proposed Law Enforcement and Firefighter Access to Epinephrine Act.

The Public Health Code allows an authorized entity that is not a school board to acquire and stock a supply of auto-injectable epinephrine under a prescription as authorized by the Code and is subject to the Code's requirements related to the storage, employee training, and administration of auto-injectable epinephrine. Under the bill, this provision would apply only to a person or governmental entity that operated or conducted a business or activity at which allergens capable of causing anaphylaxis could be present, including, a recreation camp, youth sports league, amusement park, nonpublic school, religious institution, or sports arena.

The bill specifies that a law enforcement officer or firefighter of an authorized entity, subject to the proposed training requirements in Senate Bill 417, and reasonable belief that a person was experiencing anaphylaxis, could possess and administer auto-injectable epinephrine dispensed to the entity under the Code.

MCL 333.17744a & 333.17744d (S.B. 417)

Legislative Analyst: Tyler VanHuyse

## **FISCAL IMPACT**

### **Senate Bill 417**

The bill would have no fiscal impact on State or local government.

### **Senate Bill 418**

The bill would have an indeterminate fiscal impact on fire departments and law enforcement agencies, as they would have the choice under the bill whether to possess auto-injectable epinephrine and train staff in its proper use. The purchases and training would involve costs that cannot be determined at this time.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.