

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. DIAZ -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to encouraging immunization against human papillomavirus (HPV)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The section heading and subdivisions 2, 5 and 6 of section
2 2164 of the public health law, as amended by chapter 189 of the laws of
3 2006, subdivision 2 as separately amended by chapter 506 of the laws of
4 2006, are amended to read as follows:

5 Definitions; immunization against poliomyelitis, mumps, measles,
6 diphtheria, rubella, varicella, HUMAN PAPILLOMAVIRUS (HPV), Haemophilus
7 influenzae type b (Hib), pertussis, tetanus, pneumococcal disease, and
8 hepatitis B.

9 2. a. Every person in parental relation to a child in this state shall
10 have administered to such child an adequate dose or doses of an immuniz-
11 ing agent against poliomyelitis, mumps, measles, diphtheria, rubella,
12 varicella, Haemophilus influenzae type b (Hib), pertussis, tetanus,
13 pneumococcal disease, and hepatitis B, which meets the standards
14 approved by the United States public health service for such biological
15 products, and which is approved by the department under such conditions
16 as may be specified by the public health council. EVERY PERSON IN
17 PARENTAL RELATION TO A CHILD IN THIS STATE SHALL BE ENCOURAGED, THROUGH
18 THE PROVISION OF WRITTEN EDUCATIONAL MATERIALS AND CONSULTATION, TO HAVE
19 ADMINISTERED TO SUCH CHILD AN ADEQUATE DOSE OR DOSES OF AN IMMUNIZING
20 AGENT AGAINST HUMAN PAPILLOMAVIRUS (HPV) WHICH MEETS THE STANDARDS
21 APPROVED BY THE UNITED STATES PUBLIC HEALTH SERVICE FOR SUCH BIOLOGICAL
22 PRODUCTS, AND WHICH IS APPROVED BY THE DEPARTMENT UNDER SUCH CONDITIONS
23 AS MAY BE SPECIFIED BY THE PUBLIC HEALTH COUNCIL.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 b. Every person in parental relation to a child in this state born on
2 or after January first, nineteen hundred ninety-four and entering sixth
3 grade or a comparable age level special education program with an unas-
4 signed grade on or after September first, two thousand seven, shall have
5 administered to such child a booster immunization containing diphtheria
6 and tetanus toxoids, and an acellular pertussis vaccine, which meets the
7 standards approved by the United States public health service for such
8 biological products, and which is approved by the department under such
9 conditions as may be specified by the public health council. EVERY
10 PERSON IN PARENTAL RELATION TO A CHILD IN THIS STATE BORN ON OR AFTER
11 JANUARY FIRST, NINETEEN HUNDRED NINETY-FOUR AND ENTERING SIXTH GRADE OR
12 A COMPARABLE AGE LEVEL SPECIAL EDUCATION PROGRAM WITH AN UNASSIGNED
13 GRADE ON OR AFTER SEPTEMBER FIRST, TWO THOUSAND ELEVEN, SHALL BE ENCOUR-
14 AGED, THROUGH THE PROVISION OF WRITTEN EDUCATIONAL MATERIALS AND CONSUL-
15 TATION, TO HAVE ADMINISTERED TO SUCH CHILD A BOOSTER IMMUNIZATION, WHERE
16 APPLICABLE, AGAINST HUMAN PAPILLOMAVIRUS (HPV) WHICH MEETS THE STANDARDS
17 APPROVED BY THE UNITED STATES PUBLIC HEALTH SERVICE FOR SUCH BIOLOGICAL
18 PRODUCTS, AND WHICH IS APPROVED BY THE DEPARTMENT UNDER SUCH CONDITIONS
19 AS MAY BE SPECIFIED BY THE PUBLIC HEALTH COUNCIL.

20 5. The health practitioner who administers such immunizing agent
21 against poliomyelitis, mumps, measles, diphtheria, Haemophilus influen-
22 zae type b (Hib), rubella, varicella, HUMAN PAPILLOMAVIRUS (HPV),
23 pertussis, tetanus, pneumococcal disease, and hepatitis B to any such
24 child shall give a certificate of such immunization to the person in
25 parental relation to such child.

26 6. In the event that a person in parental relation to a child makes
27 application for admission of such child to a school or has a child
28 attending school and there exists no certificate or other acceptable
29 evidence of the child's immunization against poliomyelitis, mumps,
30 measles, diphtheria, rubella, varicella, hepatitis B, pertussis, teta-
31 nus, and, where applicable, Haemophilus influenzae type b (Hib) and
32 pneumococcal disease, the principal, teacher, owner or person in charge
33 of the school shall inform such person of the necessity to have, OR IN
34 THE CASE OF HUMAN PAPILLOMAVIRUS (HPV) THE EFFICACY OF VOLUNTARILY
35 HAVING, the child immunized, that such immunization may be administered
36 by any health practitioner, or that the child may be immunized without
37 charge by the health officer in the county where the child resides, if
38 such person executes a consent therefor. In the event that such person
39 does not wish to select a health practitioner to administer the immuni-
40 zation, he or she shall be provided with a form which shall give notice
41 that as a prerequisite to processing the application for admission to,
42 or for continued attendance at, the school such person shall state a
43 valid reason for withholding consent or consent shall be given for
44 immunization to be administered by a health officer in the public
45 employ, or by a school physician or nurse. The form shall provide for
46 the execution of a consent by such person and it shall also state that
47 such person need not execute such consent if subdivision eight or nine
48 of this section apply to such child.

49 S 2. Paragraph (a) of subdivision 1 of section 613 of the public
50 health law, as amended by chapter 36 of the laws of 2010, is amended to
51 read as follows:

52 (a) The commissioner shall develop and supervise the execution of a
53 program of immunization, surveillance and testing, to raise to the high-
54 est reasonable level the immunity of the children of the state against
55 communicable diseases including, but not limited to, influenza, poliomy-
56 elitis, measles, mumps, rubella, haemophilus influenzae type b (Hib),

1 diphtheria, pertussis, tetanus, varicella, hepatitis B, pneumococcal
2 disease, and the immunity of adults of the state against diseases iden-
3 tified by the commissioner, including but not limited to influenza,
4 smallpox, and hepatitis. The commissioner shall encourage the munici-
5 palities in the state to develop and shall assist them in the develop-
6 ment and the execution of local programs of inoculation to raise the
7 immunity of the children and adults of each municipality to the highest
8 reasonable level. Such programs shall include provision of vaccine,
9 surveillance of vaccine effectiveness by means of laboratory tests,
10 serological testing of individuals and educational efforts to inform
11 health care providers and target populations or their parents, if they
12 are minors, of the facts relative to these diseases and inoculation to
13 prevent their occurrence. EDUCATIONAL EFFORTS SHALL INCLUDE, BUT NOT BE
14 LIMITED TO, INFORMATION ABOUT THE EFFICACY OF IMMUNIZING AGAINST HUMAN
15 PAPILLOMAVIRUS (HPV) TO ENCOURAGE INFORMED, VOLUNTARY VACCINATIONS.
16 S 3. This act shall take effect immediately; provided however that
17 section two of this act shall take effect on the same date and in the
18 same manner as section 1 of chapter 36 of the laws of 2010, takes
19 effect.