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I N A S S E M B L Y

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Introduced by M. of A. PAULIN, GOTTFRIED, GUNTHER, WEINSTEIN, ESPAILLAT, GREENE, MARKEY, ORTIZ, ROBINSON, CONTE, ALFANO, HOOPER, SPANO, GABRYSZAK, SCHIMEL, TITONE -- Multi-Sponsored by -- M. of A. BARRA, BING, BRODSKY, CUSICK, DESTITO, DIAZ, DINOWITZ, KELLNER, KOON, LIFTON, MAYERSOHN, TOWNS, WEISENBERG, ZEBROWSKI -- read once and referred to the Committee on Health

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

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

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

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

2. a. Every person in parental relation to a child in this state shall have administered to such child an adequate dose or doses of an immunizing agent against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, HUMAN PAPILLOMAVIRUS (HPV), Haemophilus influenzae type b (Hib), pertussis, tetanus, pneumococcal disease, and hepatitis B, which meets the standards approved by the United States public health service for such biological products, and which is approved by the department under such conditions as may be specified by the public health council.

b. Every person in parental relation to a child in this state born on or after January first, nineteen hundred ninety-four and entering sixth grade or a comparable age level special education program with an unassigned grade on or after September first, two thousand seven, shall have

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

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administered to such child a booster immunization containing diphtheria and tetanus toxoids, [and] an acellular pertussis vaccine, AND A HUMAN PAPILLOMAVIRUS (HPV) VACCINE, which meets the standards approved by the United States public health service for such biological products, and which is approved by the department under such conditions as may be specified by the public health council.

3. The person in parental relation to any such child who has not previously received such immunization shall present the child to a health practitioner and request such health practitioner to administer the necessary immunization against poliomyelitis, mumps, measles, diphtheria, Haemophilus influenzae type b (Hib), rubella, varicella, HUMAN PAPILLOMAVIRUS (HPV), pertussis, tetanus, pneumococcal disease, and hepatitis B as provided in subdivision two of this section.

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

6. In the event that a person in parental relation to a child makes application for admission of such child to a school or has a child attending school and there exists no certificate or other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, HUMAN PAPILLOMAVIRUS (HPV), hepatitis B, pertussis, tetanus, and, where applicable, Haemophilus influenzae type b (Hib) and pneumococcal disease, the principal, teacher, owner or person in charge of the school shall inform such person of the necessity to have the child immunized, that such immunization may be administered by any health practitioner, or that the child may be immunized without charge by the health officer in the county where the child resides, if such person executes a consent therefor. In the event that such person does not wish to select a health practitioner to administer the immunization, he or she shall be provided with a form which shall give notice that as a prerequisite to processing the application for admission to, or for continued attendance at, the school such person shall state a valid reason for withholding consent or consent shall be given for immunization to be administered by a health officer in the public employ, or by a school physician or nurse. The form shall provide for the execution of a consent by such person and it shall also state that such person need not execute such consent if subdivision eight or nine of this section apply to such child.

S 2. Paragraph (a) of subdivision 7 of section 2164 of the public health law, as amended by chapter 189 of the laws of 2006, is amended to read as follows:

(a) No principal, teacher, owner or person in charge of a school shall permit any child to be admitted to such school, or to attend such school, in excess of fourteen days, without the certificate provided for in subdivision five of this section or some other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, HUMAN PAPILLOMAVIRUS (HPV), hepatitis B, pertussis, tetanus, and, where applicable, Haemophilus influenzae type b (Hib) and pneumococcal disease; provided, however, such fourteen day period may be extended to not more than thirty days for an individual student by the appropriate principal, teacher, owner or other person in charge where such student is transferring from out-of-state or from

another country and can show a good faith effort to get the necessary certification or other evidence of immunization.

S 3. The opening paragraph of subdivision 8-a of section 2164 of the public health law, as amended by chapter 189 of the laws of 2006, is amended to read as follows:

Whenever a child has been refused admission to, or continued attendance at, a school as provided for in subdivision seven of this section because there exists no certificate provided for in subdivision five of this section or other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, HUMAN PAPILLOMAVIRUS (HPV), hepatitis B, pertussis, tetanus, and, where applicable, Haemophilus influenzae type b (Hib) and pneumococcal disease, the principal, teacher, owner or person in charge of the school shall:

S 4. Subdivision 1 of section 613 of the public health law, as amended by chapter 189 of the laws of 2006, is amended to read as follows:

1. The commissioner shall develop and supervise the execution of a program of immunization, surveillance and testing, to raise to the highest reasonable level the immunity of the children of the state against communicable diseases including, but not limited to, poliomyelitis, measles, mumps, rubella, haemophilus influenzae type b (Hib), diphtheria, pertussis, tetanus, varicella, HUMAN PAPILLOMAVIRUS (HPV), hepatitis B, pneumococcal disease, and the immunity of adults of the state against diseases identified by the commissioner, including but not limited to influenza, smallpox, and hepatitis. The commissioner shall encourage the municipalities in the state to develop and shall assist them in the development and the execution of local programs of inoculation to raise the immunity of the children and adults of each municipality to the highest reasonable level. Such programs shall include provision of vaccine, surveillance of vaccine effectiveness by means of laboratory tests, serological testing of individuals and educational efforts to inform health care providers and target populations or their parents, if they are minors, of the facts relative to these diseases and inoculation to prevent their occurrence. The commissioner shall invite and encourage the active assistance and cooperation in such education activities of: the medical societies, organizations of other licensed health personnel, hospitals, corporations subject to article forty-three of the insurance law, trade unions, trade associations, parents and teachers and their associations, the media of mass communication, and such other voluntary groups and organizations of citizens as he or she shall deem appropriate. The public health council, the department of education, the department of family assistance, and the department of mental hygiene shall provide the commissioner with such assistance in carrying out the program as he or she shall request. All other state agencies shall also render such assistance as the commissioner may reasonably require for this program. Nothing in this subdivision shall authorize mandatory immunization of adults or children, except as provided in sections twenty-one hundred sixty-four and twenty-one hundred sixty-five of this chapter.

S 5. This act shall take effect September 1, 2010; provided, however, that sections one, two and three of this act shall apply only to children born on or after January 1, 1996.