

S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N S E N A T E

February 10, 2009

Introduced by Sen. DIAZ -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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.
24 b. Every person in parental relation to a child in this state born on
25 or after January first, nineteen hundred ninety-four and entering sixth

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

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

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

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

47 S 2. Subdivision 1 of section 613 of the public health law, as amended
48 by chapter 189 of the laws of 2006, is amended to read as follows:

49 1. The commissioner shall develop and supervise the execution of a
50 program of immunization, surveillance and testing, to raise to the high-
51 est reasonable level the immunity of the children of the state against
52 communicable diseases including, but not limited to, poliomyelitis,
53 measles, mumps, rubella, haemophilus influenzae type b (Hib), diphthe-
54 ria, pertussis, tetanus, varicella, hepatitis B, pneumococcal disease,
55 and the immunity of adults of the state against diseases identified by
56 the commissioner, including but not limited to influenza, smallpox, and

1 hepatitis. The commissioner shall encourage the municipalities in the
2 state to develop and shall assist them in the development and the
3 execution of local programs of inoculation to raise the immunity of the
4 children and adults of each municipality to the highest reasonable
5 level. Such programs shall include provision of vaccine, surveillance of
6 vaccine effectiveness by means of laboratory tests, serological testing
7 of individuals and educational efforts to inform health care providers
8 and target populations or their parents, if they are minors, of the
9 facts relative to these diseases and inoculation to prevent their occur-
10 rence. EDUCATIONAL EFFORTS SHALL INCLUDE, BUT NOT BE LIMITED TO, INFOR-
11 MATION ABOUT THE EFFICACY OF IMMUNIZING AGAINST HUMAN PAPILLOMAVIRUS
12 (HPV) TO ENCOURAGE INFORMED, VOLUNTARY VACCINATIONS. The commissioner
13 shall invite and encourage the active assistance and cooperation in such
14 education activities of: the medical societies, organizations of other
15 licensed health personnel, hospitals, corporations subject to article
16 forty-three of the insurance law, trade unions, trade associations,
17 parents and teachers and their associations, the media of mass communi-
18 cation, and such other voluntary groups and organizations of citizens as
19 he or she shall deem appropriate. The public health council, the depart-
20 ment of education, the department of family assistance, and the depart-
21 ment of mental hygiene shall provide the commissioner with such assist-
22 ance in carrying out the program as he or she shall request. All other
23 state agencies shall also render such assistance as the commissioner may
24 reasonably require for this program. Nothing in this subdivision shall
25 authorize mandatory immunization of adults or children, except as
26 provided in sections twenty-one hundred sixty-four and twenty-one
27 hundred sixty-five of this chapter.

28 S 3. Paragraph (a) of subdivision 1 of section 613 of the public
29 health law, as amended by chapter 36 of the laws of 2010, is amended to
30 read as follows:

31 (a) The commissioner shall develop and supervise the execution of a
32 program of immunization, surveillance and testing, to raise to the high-
33 est reasonable level the immunity of the children of the state against
34 communicable diseases including, but not limited to, influenza, poliomy-
35 elitis, measles, mumps, rubella, haemophilus influenzae type b (Hib),
36 diphtheria, pertussis, tetanus, varicella, hepatitis B, pneumococcal
37 disease, and the immunity of adults of the state against diseases iden-
38 tified by the commissioner, including but not limited to influenza,
39 smallpox, and hepatitis. The commissioner shall encourage the municipi-
40 talities in the state to develop and shall assist them in the develop-
41 ment and the execution of local programs of inoculation to raise the
42 immunity of the children and adults of each municipality to the highest
43 reasonable level. Such programs shall include provision of vaccine,
44 surveillance of vaccine effectiveness by means of laboratory tests,
45 serological testing of individuals and educational efforts to inform
46 health care providers and target populations or their parents, if they
47 are minors, of the facts relative to these diseases and inoculation to
48 prevent their occurrence. EDUCATIONAL EFFORTS SHALL INCLUDE, BUT NOT BE
49 LIMITED TO, INFORMATION ABOUT THE EFFICACY OF IMMUNIZING AGAINST HUMAN
50 PAPILLOMAVIRUS (HPV) TO ENCOURAGE INFORMED, VOLUNTARY VACCINATIONS.

51 S 4. This act shall take effect immediately; provided however that
52 section three of this act shall take effect on the same date and in the
53 same manner as section 1 of chapter 36 of the laws of 2010, takes
54 effect, when upon such date the provisions of section two of this act
55 shall be deemed repealed.