

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. PAULIN, GUNTHER, MARKEY, ORTIZ, ROBINSON, CONTE, HOOPER, SPANO, GABRYSZAK, SCHIMEL, TITONE -- Multi-Sponsored by -- M. of A. BING, CUSICK, DESTITO, DINOWITZ, KELLNER, LIFTON, MAYERSOHN, TOWNS -- 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:

1 Section 1. The section heading and subdivisions 2, 3, 5 and 6 of
2 section 2164 of the public health law, as amended by chapter 189 of the
3 laws of 2006, subdivision 2 as separately amended by chapter 506 of the
4 laws of 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, HUMAN PAPILLOMAVIRUS (HPV), Haemophilus influenzae type b
13 (Hib), pertussis, tetanus, pneumococcal disease, and hepatitis B, which
14 meets the standards approved by the United States public health service
15 for such biological products, and which is approved by the department
16 under such conditions as may be specified by the public health council.

17 b. Every person in parental relation to a child in this state born on
18 or after January first, nineteen hundred ninety-four and entering sixth
19 grade or a comparable age level special education program with an unas-
20 signed grade on or after September first, two thousand seven, shall have
21 administered to such child a booster immunization containing diphtheria
22 and tetanus toxoids, [and] an acellular pertussis vaccine, AND A HUMAN

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

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1 PAPILOMAVIRUS (HPV) VACCINE, which meets the standards approved by the
2 United States public health service for such biological products, and
3 which is approved by the department under such conditions as may be
4 specified by the public health council.

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

12 5. The health practitioner who administers such immunizing agent
13 against poliomyelitis, mumps, measles, diphtheria, Haemophilus influen-
14 zae type b (Hib), rubella, varicella, HUMAN PAPILOMAVIRUS (HPV),
15 pertussis, tetanus, pneumococcal disease, and hepatitis B to any such
16 child shall give a certificate of such immunization to the person in
17 parental relation to such child.

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

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

43 (a) No principal, teacher, owner or person in charge of a school shall
44 permit any child to be admitted to such school, or to attend such
45 school, in excess of fourteen days, without the certificate provided for
46 in subdivision five of this section or some other acceptable evidence of
47 the child's immunization against poliomyelitis, mumps, measles, diphthe-
48 ria, rubella, varicella, HUMAN PAPILOMAVIRUS (HPV), hepatitis B,
49 pertussis, tetanus, and, where applicable, Haemophilus influenzae type b
50 (Hib) and pneumococcal disease; provided, however, such fourteen day
51 period may be extended to not more than thirty days for an individual
52 student by the appropriate principal, teacher, owner or other person in
53 charge where such student is transferring from out-of-state or from
54 another country and can show a good faith effort to get the necessary
55 certification or other evidence of immunization.

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

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

13 S 4. Paragraph (a) of subdivision 1 of section 613 of the public
14 health law, as amended by chapter 36 of the laws of 2010, is amended to
15 read as follows:

16 (a) The commissioner shall develop and supervise the execution of a
17 program of immunization, surveillance and testing, to raise to the high-
18 est reasonable level the immunity of the children of the state against
19 communicable diseases including, but not limited to, influenza, poliomy-
20 elitis, measles, mumps, rubella, haemophilus influenzae type b (Hib),
21 diphtheria, pertussis, tetanus, varicella, HUMAN PAPILLOMAVIRUS (HPV),
22 hepatitis B, pneumococcal disease, and the immunity of adults of the
23 state against diseases identified by the commissioner, including but not
24 limited to influenza, smallpox, and hepatitis. The commissioner shall
25 encourage the municipalities in the state to develop and shall assist
26 them in the development and the execution of local programs of inocu-
27 lation to raise the immunity of the children and adults of each munici-
28 pality to the highest reasonable level. Such programs shall include
29 provision of vaccine, surveillance of vaccine effectiveness by means of
30 laboratory tests, serological testing of individuals and educational
31 efforts to inform health care providers and target populations or their
32 parents, if they are minors, of the facts relative to these diseases and
33 inoculation to prevent their occurrence.

34 S 5. This act shall take effect September 1, 2011; provided, however,
35 that sections one, two and three of this act shall apply only to chil-
36 dren born on or after January 1, 1996; and provided further that if
37 chapter 36 of the laws of 2010 shall not have taken effect on or before
38 such date then section four of this act shall take effect on the same
39 date and in the same manner as such chapter takes effect.