

509--A

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

Introduced by Sen. HOYLMAN -- 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 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. Section 2164 of the public health law, as amended by chap-  
2 ter 401 of the laws of 2015, is amended to read as follows:  
3 S 2164. Definitions; immunization against poliomyelitis, mumps,  
4 measles, diphtheria, rubella, varicella, HUMAN PAPILLOMAVIRUS (HPV),  
5 Haemophilus influenzae type b (Hib), pertussis, tetanus, pneumococcal  
6 disease, meningococcal disease, and hepatitis B. 1. As used in this  
7 section, unless the context requires otherwise:  
8 a. The term "school" means and includes any public, private or paro-  
9 chial child caring center, day nursery, day care agency, nursery school,  
10 kindergarten, elementary, intermediate or secondary school.  
11 b. The term "child" shall mean and include any person between the ages  
12 of two months and eighteen years.  
13 c. The term "person in parental relation to a child" shall mean and  
14 include his father or mother, by birth or adoption, his legally  
15 appointed guardian, or his custodian. A person shall be regarded as the  
16 custodian of a child if he has assumed the charge and care of the child  
17 because the parents or legally appointed guardian of the minor have  
18 died, are imprisoned, are mentally ill, or have been committed to an  
19 institution, or because they have abandoned or deserted such child or  
20 are living outside the state or their whereabouts are unknown, or have

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

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1 designated the person pursuant to title fifteen-A of article five of the  
2 general obligations law as a person in parental relation to the child.

3 d. The term "health practitioner" shall mean any person authorized by  
4 law to administer an immunization.

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

13 b. Every person in parental relation to a child in this state born on  
14 or after January first, nineteen hundred ninety-four and entering sixth  
15 grade or a comparable age level special education program with an unas-  
16 signed grade on or after September first, two thousand seven, shall have  
17 administered to such child a booster immunization containing diphtheria  
18 and tetanus toxoids, [and] an acellular pertussis vaccine, AND A HUMAN  
19 PAPILLOMAVIRUS (HPV) VACCINE, which meets the standards approved by the  
20 United States public health service for such biological products, and  
21 which is approved by the department under such conditions as may be  
22 specified by the public health council.

23 c. Every person in parental relation to a child in this state entering  
24 or having entered seventh grade and twelfth grade or a comparable age  
25 level special education program with an unassigned grade on or after  
26 September first, two thousand sixteen, shall have administered to such  
27 child an adequate dose or doses of immunizing agents against meningococ-  
28 cal disease as recommended by the advisory committee on immunization  
29 practices of the centers for disease control and prevention, which meets  
30 the standards approved by the United States public health service for  
31 such biological products, and which is approved by the department under  
32 such conditions as may be specified by the public health and planning  
33 council.

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

42 4. If any person in parental relation to such child is unable to pay  
43 for the services of a private health practitioner, such person shall  
44 present such child to the health officer of the county in which the  
45 child resides, who shall then administer the immunizing agent without  
46 charge.

47 5. The health practitioner who administers such immunizing agent  
48 against poliomyelitis, mumps, measles, diphtheria, Haemophilus influen-  
49 zae type b (Hib), rubella, varicella, HUMAN PAPILLOMAVIRUS (HPV),  
50 pertussis, tetanus, pneumococcal disease, meningococcal disease, and  
51 hepatitis B to any such child shall give a certificate of such immuniza-  
52 tion to the person in parental relation to such child.

53 6. In the event that a person in parental relation to a child makes  
54 application for admission of such child to a school or has a child  
55 attending school and there exists no certificate or other acceptable  
56 evidence of the child's immunization against poliomyelitis, mumps,

1 measles, diphtheria, rubella, varicella, HUMAN PAPILLOMAVIRUS (HPV),  
2 hepatitis B, pertussis, tetanus, and, where applicable, Haemophilus  
3 influenzae type b (Hib), meningococcal disease, and pneumococcal  
4 disease, the principal, teacher, owner or person in charge of the school  
5 shall inform such person of the necessity to have the child immunized,  
6 that such immunization may be administered by any health practitioner,  
7 or that the child may be immunized without charge by the health officer  
8 in the county where the child resides, if such person executes a consent  
9 therefor. In the event that such person does not wish to select a health  
10 practitioner to administer the immunization, he or she shall be provided  
11 with a form which shall give notice that as a prerequisite to processing  
12 the application for admission to, or for continued attendance at, the  
13 school such person shall state a valid reason for withholding consent or  
14 consent shall be given for immunization to be administered by a health  
15 officer in the public employ, or by a school physician or nurse. The  
16 form shall provide for the execution of a consent by such person and it  
17 shall also state that such person need not execute such consent if  
18 subdivision eight or nine of this section apply to such child.

19 7. (a) No principal, teacher, owner or person in charge of a school  
20 shall permit any child to be admitted to such school, or to attend such  
21 school, in excess of fourteen days, without the certificate provided for  
22 in subdivision five of this section or some other acceptable evidence of  
23 the child's immunization against poliomyelitis, mumps, measles, diphthe-  
24 ria, rubella, varicella, HUMAN PAPILLOMAVIRUS (HPV), hepatitis B,  
25 pertussis, tetanus, and, where applicable, Haemophilus influenzae type b  
26 (Hib), meningococcal disease, and pneumococcal disease; provided, howev-  
27 er, such fourteen day period may be extended to not more than thirty  
28 days for an individual student by the appropriate principal, teacher,  
29 owner or other person in charge where such student is transferring from  
30 out-of-state or from another country and can show a good faith effort to  
31 get the necessary certification or other evidence of immunization.

32 (b) A parent, a guardian or any other person in parental relationship  
33 to a child denied school entrance or attendance may appeal by petition  
34 to the commissioner of education in accordance with the provisions of  
35 section three hundred ten of the education law.

36 8. If any physician licensed to practice medicine in this state certi-  
37 fies that such immunization may be detrimental to a child's health, the  
38 requirements of this section shall be inapplicable until such immuniza-  
39 tion is found no longer to be detrimental to the child's health.

40 8-a. Whenever a child has been refused admission to, or continued  
41 attendance at, a school as provided for in subdivision seven of this  
42 section because there exists no certificate provided for in subdivision  
43 five of this section or other acceptable evidence of the child's immuni-  
44 zation against poliomyelitis, mumps, measles, diphtheria, rubella, vari-  
45 cella, HUMAN PAPILLOMAVIRUS (HPV), hepatitis B, pertussis, tetanus, and,  
46 where applicable, Haemophilus influenzae type b (Hib), meningococcal  
47 disease, and pneumococcal disease, the principal, teacher, owner or  
48 person in charge of the school shall:

49 a. forward a report of such exclusion and the name and address of such  
50 child to the local health authority and to the person in parental  
51 relation to the child together with a notification of the responsibility  
52 of such person under subdivision two of this section and a form of  
53 consent as prescribed by regulation of the commissioner, and

54 b. provide, with the cooperation of the appropriate local health  
55 authority, for a time and place at which an immunizing agent or agents  
56 shall be administered, as required by subdivision two of this section,

1 to a child for whom a consent has been obtained. Upon failure of a local  
2 health authority to cooperate in arranging for a time and place at which  
3 an immunizing agent or agents shall be administered as required by  
4 subdivision two of this section, the commissioner shall arrange for such  
5 administration and may recover the cost thereof from the amount of state  
6 aid to which the local health authority would otherwise be entitled.

7 9. This section shall not apply to children whose parent, parents, or  
8 guardian hold genuine and sincere religious beliefs which are contrary  
9 to the practices herein required, and no certificate shall be required  
10 as a prerequisite to such children being admitted or received into  
11 school or attending school.

12 10. The commissioner may adopt and amend rules and regulations to  
13 effectuate the provisions and purposes of this section.

14 11. Every school shall annually provide the commissioner, on forms  
15 provided by the commissioner, a summary regarding compliance with the  
16 provisions of this section.

17 S 2. Paragraph (a) of subdivision 1 of section 613 of the public  
18 health law, as amended by section 24 of part E of chapter 56 of the laws  
19 of 2013, is amended to read as follows:

20 (a) The commissioner shall develop and supervise the execution of a  
21 program of immunization, surveillance and testing, to raise to the high-  
22 est reasonable level the immunity of the children of the state against  
23 communicable diseases including, but not limited to, influenza, poliomy-  
24 elitis, measles, mumps, rubella, haemophilus influenzae type b (Hib),  
25 diphtheria, pertussis, tetanus, varicella, HUMAN PAPILLOMAVIRUS (HPV),  
26 hepatitis B, pneumococcal disease, and the immunity of adults of the  
27 state against diseases identified by the commissioner, including but not  
28 limited to influenza, smallpox, hepatitis and such other diseases as the  
29 commissioner may designate through regulation. Municipalities in the  
30 state shall maintain local programs of immunization to raise the immuni-  
31 ty of the children and adults of each municipality to the highest  
32 reasonable level, in accordance with an application for state aid  
33 submitted by the municipality and approved by the commissioner. Such  
34 programs shall include assurance of provision of vaccine, serological  
35 testing of individuals and educational efforts to inform health care  
36 providers and target populations or their parents, if they are minors,  
37 of the facts relative to these diseases and immunizations to prevent  
38 their occurrence.

39 S 3. This act shall take effect on the first of September next  
40 succeeding the date on which it shall have become a law; provided,  
41 however, that section one of this act shall apply only to children born  
42 on or after January 1, 1996.