

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.

LBD01836-02-6

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.