WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

ENROLLED
Committee Substitute for
SENATE BILL NO. 522

(By Mr. )

PASSED April 11, 1985
In Effect from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 522

(MR. KAUFMAN, original sponsor)

(Originating in the Committee on Health and Human Resources.)

(Passed April 11, 1985; in effect ninety days from passage.)

AN ACT to amend and reenact section four, article three, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend chapter sixteen of said code by adding thereto a new article, designated article three-b, all relating to compulsory immunizations and dissemination of information at birth; pertussis vaccine; definitions; information on adverse reactions to pertussis vaccine to be provided prior to vaccination; recordation of and reporting pertussis vaccination data; data collection; and public hearings.

Be it enacted by the Legislature of West Virginia:

That section four, article three, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that chapter sixteen be further amended by adding thereto a new article, designated article three-b, all to read as follows:
ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER INFECTIOUS DISEASES.

§16-3-4. Compulsory immunization of school children; information disseminated; offenses; penalties.

1 Whenever a resident birth occurs, the state director of health shall promptly provide parents of the newborn child with information on immunizations mandated by this state or required for admission to a public school in this state.

2 All children entering school for the first time in this state shall have been immunized against diphtheria, polio, rubella, rubella, tetanus and whooping cough. Any person who cannot give satisfactory proof of having been immunized previously or a certificate from a reputable physician showing that an immunization for any or all diphtheria, polio, rubella, rubella, tetanus and whooping cough is impossible or improper or sufficient reason why any or all immunizations should not be done, shall be immunized for diphtheria, polio, rubella, rubella, tetanus and whooping cough prior to being admitted in any of the schools of the state. No child or person shall be admitted or received in any of the schools of the state until he or she has been immunized as hereinafter provided, or produces a certificate from a reputable physician showing that an immunization for diphtheria, polio, rubella, rubella, tetanus and whooping cough has been done or is impossible or improper or other sufficient reason why such immunizations have not been done. Any teacher having information concerning any person who attempts to enter school for the first time without having been immunized against diphtheria, polio, rubella, rubella, tetanus and whooping cough shall report the names of all such persons to the county health officer. It shall be the duty of the health officer in counties having a full-time health officer to see that such persons are immunized before entering school.

3 In counties where there is no full-time health officer or district health officer, the county commission or municipal council shall appoint competent physicians to do the immunizations and fix their compensation.
37 health departments shall furnish the biologicals for this
38 immunization free of charge.
39 Health officers and physicians who shall do this im-
40 munization work shall give to all persons and children a
41 certificate free of charge showing that they have been
42 immunized against diphtheria, polio, rubeola, rubella,
43 tetanus and whooping cough, or he or she may give the
44 certificate to any person or child whom he or she knows
45 to have been immunized against diphtheria, polio, rubeola,
46 rubella, tetanus and whooping cough. If any physician
47 shall give any person a false certificate of immunization
48 against diphtheria, polio, rubeola, rubella, tetanus and
49 whooping cough, he or she shall be guilty of a misde-
50 meanor, and, upon conviction, shall be fined not less
51 than twenty-five nor more than one hundred dollars.
52 Any parent or guardian who refuses to permit his or
53 her child to be immunized against diphtheria, polio,
54 rubeola, rubella, tetanus and whooping cough, who can-
55 not give satisfactory proof that the child or person has
56 been immunized against diphtheria, polio, rubeola,
57 rubella, tetanus and whooping cough previously, or a
58 certificate from a reputable physician showing that an
59 immunization for any or all is impossible or improper, or
60 sufficient reason why any or all immunizations should
61 not be done, shall be guilty of a misdemeanor, and
62 except as herein otherwise provided, shall, upon convic-
63 tion, be punished by a fine of not less than ten nor more
64 than fifty dollars for each offense.

ARTICLE 3B. PERTUSSIS.

§16-3B-1. Definitions.
1 (a) “Health care provider” means any licensed health
2 care professional, organization or institution, whether
3 public or private, under whose authority pertussis vac-
4 cine is administered.
5 (b) “Major adverse reaction” means any serious ill-
6 ness, disability or impairment of mental, emotional, be-
7 havioral or physical functioning or development, the
8 first manifestation of which appears within four weeks

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ARTICLE 3B. PERTUSSIS.
§16-3B-2. Information supplied to individuals; parents prior to administration of pertussis vaccine.

(a) Prior to the administration of pertussis vaccine, the health care provider shall provide to the individual’s parent or guardian written information satisfying the requirements of this section, and by appropriate inquiries attempt to elicit the information necessary to make the determinations required by this section:

(1) The frequency, severity and potential long-term effects of pertussis;

(2) Possible adverse reactions to pertussis vaccine which, if they occur, should be brought to the immediate attention of the health care provider;

(3) A form listing symptoms to be monitored and containing places where information can be recorded to assist in reporting to the health care provider, health officer and the department;

(4) Measures parents should take to reduce the risk of, or to respond to, any adverse reaction;

(5) Early warning signs or symptoms to which parents should be alert as possible precursors to an adverse reaction;

(6) When and to whom parents should report any adverse reaction; and
23. (7) The information required under section four of this article.

§16-3B-3. Recordation of pertussis vaccine administration.

1. (a) At the time of administration of pertussis vaccine to an individual, the health care provider shall record in a permanent record to which the patient or the patient's parent or guardian shall have access on request:

1. (1) The date of each vaccination;

1. (2) The manufacturer and lot number of the vaccine used for each;

1. (3) Any other identifying information on the vaccine used; and

1. (4) The name and title of the health care provider.

(b) Within twenty-four hours after an adverse reaction is recognized by any health care provider who has administered pertussis vaccine to an individual and has reason to believe that the individual has had a major adverse reaction to the vaccine, such health care provider shall:

1. (1) Record all relevant information in the individual's permanent medical record; and

1. (2) Report the information including the manufacturer's name and lot number to the county health officer who shall immediately forward the information to the department. On receipt of the information, the department shall immediately notify the vaccine manufacturer, and the United States centers for disease control.

§16-3B-4. Data collection on pertussis vaccine administration.

1. (a) By guideline, the department shall establish a system, sufficient for the purposes of subsections (b) and (c) of this section, to collect data from the local health officers, from public and private health care providers and from parents on the incidence of pertussis and major adverse reactions to pertussis vaccine.

1. (b) On the basis of information collected under this subsection and of other information available, the de-
partment shall periodically revise and update the information required by and the guidelines adopted under section two of this article.

(c) (1) The department shall report to the United States centers for disease control all information collected under this section, including that received under section three of this article.

(2) The department shall report annually to the Legislature on the incidence of pertussis and of adverse reactions to pertussis vaccine.

§16-3B-5. Public hearings.

(a) The department shall adopt guidelines, after notice and public hearing in accordance with the administrative procedures act, chapter twenty-nine-a of this code, setting forth:

(1) The circumstances under which pertussis vaccine should not be administered;

(2) The circumstances under which administration of the vaccine should be delayed;

(3) Any categories of potential recipients who are significantly more vulnerable to major adverse reactions than is the general population; and

(4) Procedures to notify all health care providers of the content of the final guidelines and all updates issued thereafter.

(b) The administration of pertussis vaccine to an individual may not be required by any provision of law if, in the judgment of the health care provider:

(1) The circumstances specified under this section are present; or

(2) Taking into account the information specified under this section as well as all other relevant information, the risk to the potential recipient outweighs the benefits both to the potential recipient and to the public in administering the vaccine.

(c) Nothing in this section shall be construed to affect any emergency authority of the director of health under any other provision of law to protect the public health.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee
Floyd Fuller
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate
Joe C. Wells

Clerk of the House of Delegates
Donald L. Hoff

President of the Senate
Dan Tonnison

Speaker House of Delegates
Joseph P. Allwright

The within______________________________this the_____

day of______________________________, 1985.

Governor
Mabry