

No: 522

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1985



**ENROLLED**  
*Committee Substitute for*  
SENATE BILL NO. 522

(By Mr. Kaufman)



PASSED April 11 1985  
In Effect ninety days from Passage



**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 522**

(MR. KAUFMAN, *original sponsor*)

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

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[Passed April 11, 1935; in effect ninety days from passage.]

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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  
2 health shall promptly provide parents of the newborn  
3 child with information on immunizations mandated by  
4 this state or required for admission to a public school in  
5 this state.

6 All children entering school for the first time in this  
7 state shall have been immunized against diphtheria, polio,  
8 rubeola, rubella, tetanus and whooping cough. Any  
9 person who cannot give satisfactory proof of having been  
10 immunized previously or a certificate from a reputable  
11 physician showing that an immunization for any or all  
12 diphtheria, polio, rubeola, rubella, tetanus and whooping  
13 cough is impossible or improper or sufficient reason why  
14 any or all immunizations should not be done, shall be  
15 immunized for diphtheria, polio, rubeola, rubella, tetanus  
16 and whooping cough prior to being admitted in any of  
17 the schools of the state. No child or person shall be ad-  
18 mitted or received in any of the schools of the state until  
19 he or she has been immunized as hereinafter provided,  
20 or produces a certificate from a reputable physician show-  
21 ing that an immunization for diphtheria, polio, rubeola,  
22 rubella, tetanus and whooping cough has been done or is  
23 impossible or improper or other sufficient reason why such  
24 immunizations have not been done. Any teacher having  
25 information concerning any person who attempts to  
26 enter school for the first time without having been im-  
27 munized against diphtheria, polio, rubeola, rubella,  
28 tetanus and whooping cough shall report the names of  
29 all such persons to the county health officer. It shall  
30 be the duty of the health officer in counties having a  
31 full-time health officer to see that such persons are im-  
32 munized before entering school.

33 In counties where there is no full-time health officer  
34 or district health officer, the county commission or  
35 municipal council shall appoint competent physicians to  
36 do the immunizations and fix their compensation. County

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

9 after the date of administration of pertussis vaccine and  
10 for which there is reasonable scientific or medical evi-  
11 dence that pertussis vaccine causes, or significantly con-  
12 tributed to, such effect.

13 (c) "Any other adverse reaction" means any reaction  
14 which the department, after consultation with the medi-  
15 cal and pharmacy faculties of West Virginia's teaching  
16 hospitals, determines by guideline is a basis for not con-  
17 tinuing with pertussis vaccine administration.

18 (d) "Pertussis vaccine" means any vaccine that con-  
19 tains materials intended to prevent the occurrence of  
20 pertussis, whether or not the materials are administered  
21 separately or in conjunction with other materials intended  
22 to prevent the occurrence of other diseases.

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

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

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

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

12 (3) A form listing symptoms to be monitored and con-  
13 taining places where information can be recorded to  
14 assist in reporting to the health care provider, health  
15 officer and the department;

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

18 (5) Early warning signs or symptoms to which parents  
19 should be alert as possible precursors to an adverse re-  
20 action;

21 (6) When and to whom parents should report any  
22 adverse reaction; and

23 (7) The information required under section four of  
24 this article.

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

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

- 5 (1) The date of each vaccination;
- 6 (2) The manufacturer and lot number of the vaccine  
7 used for each;
- 8 (3) Any other identifying information on the vaccine  
9 used; and
- 10 (4) The name and title of the health care provider.

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

- 17 (1) Record all relevant information in the individual's  
18 permanent medical record; and
- 19 (2) Report the information including the manufac-  
20 turer's name and lot number to the county health officer  
21 who shall immediately forward the information to the  
22 department. On receipt of the information, the depart-  
23 ment shall immediately notify the vaccine manufacturer,  
24 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  
2 system, sufficient for the purposes of subsections (b) and  
3 (c) of this section, to collect data from the local health  
4 officers, from public and private health care providers  
5 and from parents on the incidence of pertussis and major  
6 adverse reactions to pertussis vaccine.

7 (b) On the basis of information collected under this  
8 subsection and of other information available, the de-

9 department shall periodically revise and update the in-  
10 formation required by and the guidelines adopted under  
11 section two of this article.

12 (c) (1) The department shall report to the United  
13 States centers for disease control all information col-  
14 lected under this section, including that received under  
15 section three of this article.

16 (2) The department shall report annually to the Legis-  
17 lature on the incidence of pertussis and of adverse re-  
18 actions to pertussis vaccine.

**§16-3B-5. Public hearings.**

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

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

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

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

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

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

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

20 (2) Taking into account the information specified under  
21 this section as well as all other relevant information,  
22 the risk to the potential recipient outweighs the benefits  
23 both to the potential recipient and to the public in ad-  
24 ministering the vaccine.

25 (c) Nothing in this section shall be construed to affect  
26 any emergency authority of the director of health under  
27 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

*Nassir E. Ables*  
Chairman Senate Committee

*Floyd Fulber*  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Paul C. Mills*  
Clerk of the Senate

*Donald L. Kopp*  
Clerk of the House of Delegates

*Dan Tomkins*  
President of the Senate

*Joseph P. Allright*  
Speaker House of Delegates

The within *appeared* this the *1st*

day of *May*, 1985.

*Arthur A. Prange, Jr.*  
Governor



PRESENTED TO THE

GOVERNOR

Date 4/19/85

Time 8:49 p.m.

RECEIVED

1935 MAY -2 PM 3:18

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE