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COMMITTEE SUBSTITUTE

OFFICE WEST VIRGINIA
SECRETARY OF STATE

FOR

Senate Bill No. 286

(SENATORS FERNS, TRUMP, D. HALL, BLAIR, BOLEY, GAUNCH,
LEONHARDT, MULLINS AND KARNES, *ORIGINAL SPONSORS*)

[Passed March 18, 2015; in effect ninety days from passage.]

AN ACT to amend and reenact §16-3-4 and §16-3-5 of the Code of West Virginia, 1931, as amended, all relating generally to mandatory immunizations; adding required immunizations; requiring immunizations in public, private and parochial schools; requiring immunizations in state regulated day care centers; providing medical exemptions from mandatory immunizations for children; allowing for provisional enrollment; requiring parents and guardians to provide a certificate from the Commissioner of the Bureau for Public Health; providing that certificate be provided before exemption applies; requiring that a request for a medical exemption must be accompanied with a certificate from a licensed physician indicating immunization is medically contraindicated; providing that county health departments shall provide immunizations when families attest they cannot afford them; allowing Commissioner of the Bureau for Public Health to grant, renew, condition, deny, suspend or revoke exemptions when not medically indicated; allowing for appointment by

Commissioner of the Bureau for Public Health of an immunization officer who must be a physician; allowing for immunization officer to make determinations regarding exemptions; providing for an appeal procedure for determinations by the immunization officer or the state health officer; modifying Immunization Advisory Committee; establishing a chair of the committee; and setting forth ethical limitations for committee members.

Be it enacted by the Legislature of West Virginia:

That §16-3-4 and §16-3-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, 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 (a) Whenever a resident birth occurs, the commissioner
2 shall promptly provide parents of the newborn child with
3 information on immunizations mandated by this state or
4 required for admission to a public, private, parochial school
5 in this state or a state-regulated child care center.

6 (b) Except as hereinafter provided, a child entering
7 school or a state-regulated child care center in this state must
8 be immunized against chickenpox, hepatitis-b, measles,
9 meningitis, mumps, diphtheria, polio, rubella, tetanus and
10 whooping cough.

11 (c) No child or person may be admitted or received in any
12 of the schools of the state or a state-regulated child care
13 center until he or she has been immunized against
14 chickenpox, hepatitis-b, measles, meningitis, mumps,
15 diphtheria, polio, rubella, tetanus and whooping cough or
16 produces a certificate from the commissioner granting the

17 child or person an exemption from the compulsory
18 immunization requirements of this section.

19 (d) Any school or state-regulated child care center
20 personnel having information concerning any person who
21 attempts to be enrolled in a school or state-regulated child
22 care center without having been immunized against
23 chickenpox, hepatitis-b, measles, meningitis, mumps,
24 diphtheria, polio, rubella, tetanus and whooping cough shall
25 report the names of all such persons to the commissioner.

26 (e) Persons may be provisionally enrolled under
27 minimum criteria established by the commissioner so that the
28 person's immunization may be completed while missing a
29 minimum amount of school. No person shall be allowed to
30 enter school without at least one dose of each required
31 vaccine.

32 (f) County health departments shall furnish the
33 biologicals for this immunization for children of parents or
34 guardians who attest that they cannot afford or otherwise
35 access vaccines elsewhere.

36 (g) Health officers and physicians who provide
37 vaccinations must present the person vaccinated with a
38 certificate free of charge showing that they have been
39 immunized against chickenpox, hepatitis-b, measles,
40 meningitis, mumps, diphtheria, polio, rubella, tetanus and
41 whooping cough, or he or she may give the certificate to any
42 person or child whom he or she knows to have been
43 immunized against chickenpox, hepatitis-b, measles,
44 meningitis, mumps, diphtheria, polio, rubella, tetanus and
45 whooping cough.

46 (h) The commissioner is authorized to grant, renew,
47 condition, deny, suspend or revoke exemptions to the
48 compulsory immunization requirements of this section, on a

49 statewide basis, upon sufficient medical evidence that
50 immunization is contraindicated or there exists a specific
51 precaution to a particular vaccine.

52 (1) A request for an exemption to the compulsory
53 immunization requirements of this section must be
54 accompanied by the certification of a licensed physician
55 stating that the physical condition of the child is such that
56 immunization is contraindicated or there exists a specific
57 precaution to a particular vaccine.

58 (2) The commissioner is authorized to appoint and
59 employ an Immunization Officer to make determinations on
60 request for an exemption to the compulsory immunization
61 requirements of this section, on a statewide basis, and
62 delegate to the Immunization Officer the authority granted to
63 the commissioner by this subsection.

64 (3) A person appointed and employed as the
65 Immunization Officer must be a physician licensed under the
66 laws of this state to practice medicine.

67 (4) The Immunization Officer's decision on a request for
68 an exemption to the compulsory immunization requirements
69 of this section may be appealed to the State Health Officer.

70 (5) The final determination of the State Health Officer is
71 subject to a right of appeal pursuant to the provisions of
72 article five, chapter twenty-nine a of this code.

73 (i) A physician who provides any person with a false
74 certificate of immunization against chickenpox, hepatitis-b,
75 measles, meningitis, mumps, diphtheria, polio,, rubella,
76 tetanus and whooping cough is guilty of a misdemeanor and,
77 upon conviction, shall be fined not less than \$25 nor more
78 than \$100.

§16-3-5. Distribution of free vaccine preventives of disease.

1 (a) *Declaration of legislative findings and purpose.* –
2 The Legislature finds and declares that early immunization
3 for preventable diseases represents one of the most
4 cost-effective means of disease prevention. The savings
5 which can be realized from immunization, compared to the
6 cost of health care necessary to treat the illness and lost
7 productivity, are substantial. Immunization of children at
8 an early age serves as a preventive measure both in time and
9 money and is essential to maintain our children's health and
10 well-being. The costs of childhood immunizations should
11 not be allowed to preclude the benefits available from a
12 comprehensive, medically supervised child immunization
13 service.

14 (b) The Commissioner of the Bureau for Public Health
15 shall acquire vaccine for the prevention of polio, measles,
16 meningitis, mumps, rubella, chickenpox, diphtheria,
17 pertussis, tetanus, hepatitis-b, haemophilus influenzae-b and
18 other vaccine preventable diseases as considered necessary or
19 required by law and shall distribute the same, free of charge,
20 in quantities he or she considers necessary, to public and
21 private providers, to be used by them for the benefit of
22 citizens to check contagions and control epidemics.

23 (c) The Commissioner of the Bureau for Public Health,
24 through the immunization program, has the responsibility to
25 ensure the distribution, free of charge, of federally supplied
26 vaccines to public and private providers to be used to check
27 contagions and control epidemics: *Provided*, That the public
28 and private providers may not make a charge for the vaccine
29 itself when administering it to a patient. The Commissioner
30 of the Bureau for Public Health, through the immunization
31 program, shall keep an accurate record of any vaccine
32 delivered as provided in this section.

33 (d) The commissioner is charged with establishing an
34 Immunization Advisory Committee. The advisory committee
35 is to make recommendations on the distribution of vaccines
36 acquired pursuant to this section, advise the secretary on the
37 changing needs and opportunities for immunization from
38 known diseases for all persons across their life span and track
39 immunization compliance in accordance with federal and
40 state laws. Members of the Immunization Advisory
41 Committee shall be designated and appointed by the
42 commissioner no later than July 1, 2015. The advisory
43 committee shall be comprised of representatives from the
44 following groups: Public health nursing, public health
45 officers, primary health care providers, pediatricians, family
46 practice physicians, health care administrators, pharmacists,
47 the Commissioner of the Bureau for Medical Services, or his
48 or her designee, the health insurance industry, the Director of
49 the Public Employees Insurance Agency, or his or her
50 designee, the self-insured industry and a minimum of three
51 consumers. The state epidemiologist serves as an advisor to
52 the committee. The commissioner, or his or her designee,
53 serves as the chair of the advisory committee. Members of
54 the advisory committee serve four-year terms.

55 (e) An advisory committee member may not participate
56 in a matter involving specific parties that will have a direct
57 and predicable effect on their financial interest. An effect
58 will not be direct in instances where the chain of causation is
59 attenuated or is contingent upon the occurrence of events that
60 are speculative.

61 (f) All health insurance policies and prepaid care policies
62 issued in this state which provide coverage for the children of
63 the insured shall provide coverage for child immunization
64 services to include the cost of the vaccine, if incurred by the
65 health care provider, and all costs of administration from
66 birth through age eighteen years. These services are exempt
67 from any deductible, per-visit charge and/or copayment

68 provisions which may be in force in these policies or
69 contracts. This section does not exempt other health care
70 services provided at the time of immunization from any
71 deductible or copayment provisions.

72 (g) Attending physicians, midwives, nurse practitioners,
73 hospitals, birthing centers, clinics and other appropriate
74 health care providers shall provide parents of newborns and
75 preschool age children with information on the following
76 immunizations: Diphtheria, polio, mumps, meningitis,
77 measles, rubella, tetanus, hepatitis-b, haemophilus
78 influenzae-b, chickenpox and whooping cough. This
79 information should include the availability of free
80 immunization services for children.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Paul R. Spang
.....
Chairman Senate Committee

John R. Kil
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clark S. Barnes
.....
Clerk of the Senate

Stephen J. Hoffman
.....
Clerk of the House of Delegates

William P. Adams
.....
President of the Senate

John W. Mendenhall
.....
Speaker of the House of Delegates

The within *is approved* this the *31st*
March
Day of, 2015.

Carl Ray Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 27 2015

Time 3:25 pm