ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 286

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

[Passed March 14, 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; setting forth immunization dosage levels; adding required immunizations; providing medical and religious exemptions from mandatory immunizations for school children; requiring parents and guardians to assert their beliefs in affidavit; providing that affidavit be provided before exemption applies; allowing removal of students who are not immunized from school in times of emergency or epidemic; granting legislative rule-making authority to the Secretary of the Department of Health and Human Resources to add or delete diseases for which vaccines are required for school attendance, to develop necessary forms and to create process for reviewing any verification of affidavits for completeness; nullifying an interpretive rule and any action taken pursuant to the interpretive rule; modifying the Immunization Advisory Committee; and establishing a chair of the committee.
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.

(a) Whenever a resident birth occurs, the commissioner shall promptly provide parents of the newborn child with information on immunizations mandated by this state or required for admission to a public private, parochial school in this state or a state-regulated child care center.

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

(c) No child or person may be admitted or received in any of the schools of the state or a state-regulated child care center until he or she has been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough or produces a certificate from the commissioner granting the child or person an exemption from the compulsory immunization requirements of this section.

(d) Any school or state-regulated child care center personnel having information concerning any person who attempts to be enrolled in a school or state-regulated child care center without having been immunized against chickenpox hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough shall report the names of all such persons to the commissioner.
(e) Persons enrolling from schools may be provisionally enrolled under minimum criteria established by the commissioner so that the person’s immunization may be completed while missing a minimum amount of school. No person shall be allowed to enter school without at least one dose of each required vaccine.

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

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

(h) The commissioner is authorized to grant, renew, condition, deny, suspend or revoke exemptions to the compulsory immunization requirements of this section, on a statewide basis, upon sufficient medical evidence that immunization is contraindicated or there exists a specific precaution to a particular vaccine.

(1) A request for an exemption to the compulsory immunization requirements of this section must be accompanied by the certification of a licensed physician stating that the physical condition of the child is such that immunization is contraindicated or there exists a specific precaution to a particular vaccine.
§16-3-5. Distribution of free vaccine preventives of disease.

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

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

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

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

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

(f) All health insurance policies and prepaid care policies
issued in this state which provide coverage for the children of
the insured shall provide coverage for child immunization
services to include the cost of the vaccine, if incurred by the
health care provider, and all costs of administration from
birth through age eighteen years. These services are exempt
from any deductible, per-visit charge and/or copayment
provisions which may be in force in these policies or
contracts. This section does not exempt other health care
services provided at the time of immunization from any
deductible or copayment provisions.

(g) Attending physicians, midwives, nurse practitioners,
hospitals, birthing centers, clinics and other appropriate
health care providers shall provide parents of newborns and
preschool age children with information on the following
immunizations: Diphtheria, polio, mumps, meningitis,
measles, rubella, tetanus, hepatitis-b, haemophilus
influenzae-b, chickenpox and whooping cough. This information should include the availability of free immunization services for children.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within bill is approved this the 18th Day of March, 2015.

Governor
PRESENTED TO THE GOVERNOR

MARCH 17, 2015

Time 3:26 P.M.