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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 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.

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 in
5 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 enrolling from schools may be provisionally
27 enrolled under minimum criteria established by the
28 commissioner so that the person's immunization may be
29 completed while missing a minimum amount of school. No
30 person shall be allowed to enter school without at least one
31 dose of each required 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.* – The
2 Legislature finds and declares that early immunization for
3 preventable diseases represents one of the most cost-effective
4 means of disease prevention. The savings which can be
5 realized from immunization, compared to the cost of health
6 care necessary to treat the illness and lost productivity, are
7 substantial. Immunization of children at an early age serves
8 as a preventive measure both in time and money and is

9 essential to maintain our children's health and well-being.
10 The costs of childhood immunizations should not be allowed
11 to preclude the benefits available from a comprehensive,
12 medically supervised child immunization service.

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

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

32 (d) The commissioner is charged with establishing an
33 Immunization Advisory Committee. The advisory committee
34 is to, make recommendations on the distribution of vaccines
35 acquired pursuant to this section, advise the secretary on the
36 changing needs and opportunities for immunization from
37 known diseases for all persons across their life span and track
38 immunization compliance in accordance with federal and
39 state laws. Members of the Immunization Advisory
40 Committee shall be designated and appointed by the
41 commissioner no later than July 1, 2015. The Advisory
42 Committee shall be comprised of representatives from the

43 following groups: Public health nursing, public health
44 officers, primary health care providers, pediatricians, family
45 practice physicians, health care administrators, pharmacists,
46 the Commissioner of the Bureau for Medical Services, or his
47 or her designee, the health insurance industry, the Director of
48 the Public Employees Insurance Agency, or his or her
49 designee, the self-insured industry and a minimum of three
50 consumers. The state epidemiologist serves as an advisor to
51 the committee. The commissioner, or his or her designee,
52 serves as the chair of the Advisory Committee. Members of
53 the advisory committee serve four-year terms.

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

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

71 (g) Attending physicians, midwives, nurse practitioners,
72 hospitals, birthing centers, clinics and other appropriate
73 health care providers shall provide parents of newborns and
74 preschool age children with information on the following
75 immunizations: Diphtheria, polio, mumps, meningitis,
76 measles, rubella, tetanus, hepatitis-b, haemophilus

77 influenzae-b, chickenpox and whooping cough. This
78 information should include the availability of free
79 immunization services for children.

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

Mark R. Maynard
.....
Chairman Senate Committee

John B. Miller
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clark Leonard
.....
Clerk of the Senate

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

William Phelps
.....
President of the Senate

Calvin M. Jones
.....
Speaker of the House of Delegates

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

Carl Roy Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 17 2015

Time 3:26 pm