

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 354

Introduced by Assembly Member Arambula

February 19, 2009

An act to amend Sections 120325 and 120335 of the Health and Safety Code, relating to vaccinations.

LEGISLATIVE COUNSEL'S DIGEST

AB 354, as amended, Arambula. Health: immunizations.

Existing law prohibits the governing authority of a school or other institution from unconditionally admitting any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her first admission to that institution he or she has been fully immunized against various diseases, including hepatitis B and pertussis (whooping cough), and varicella (*chickenpox*), as well as any other disease deemed appropriate by the State Department of Public Health, taking into consideration the recommendations of specified entities.

This bill would add to these entities the American Academy of Family Physicians.

This bill would also, in part, remove certain of the age and date restrictions.

Existing law makes these provisions, as they relate to varicella (chickenpox), operative only to the extent that funds are appropriated in the annual Budget Act, and authorizes the department to adopt emergency regulations, as specified.

This bill would, regarding the varicella (chickenpox) provisions, delete the requirement that it be operative only to the extent that funds are appropriated in the annual Budget Act, and would delete the department’s authorization to adopt emergency regulations.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares that it does
 2 not intend to relinquish its responsibilities relating to immunization
 3 requirements as it will continue oversight of this process through
 4 legislative and budgetary mechanisms, as necessary.
 5 SEC. 2. Section 120325 of the Health and Safety Code is
 6 amended to read:
 7 120325. In enacting this chapter, but excluding Section 120380,
 8 and in enacting Sections 120400, 120405, 120410, and 120415, it
 9 is the intent of the Legislature to provide:
 10 (a) A means for the eventual achievement of total immunization
 11 of appropriate age groups against the following childhood diseases:
 12 (1) Diphtheria.
 13 (2) Hepatitis B.
 14 (3) Haemophilus influenzae type b.
 15 (4) Measles.
 16 (5) Mumps.
 17 (6) Pertussis (whooping cough).
 18 (7) Poliomyelitis.
 19 (8) Rubella.
 20 (9) Tetanus.
 21 (10) Varicella (chickenpox). This paragraph shall be operative
 22 only to the extent that funds for this purpose are appropriated in
 23 the annual Budget Act.
 24 (11) Any other disease deemed appropriate by the department,
 25 taking into consideration the recommendations of the Advisory
 26 Committee on Immunization Practices of the United States
 27 Department of Health and Human Services, the American Academy
 28 of Pediatrics, and the American Academy of Family Physicians.
 29 (b) That the persons required to be immunized be allowed to
 30 obtain immunizations from whatever medical source they so desire,
 31 subject only to the condition that the immunization be performed

1 in accordance with the regulations of the department and that a
2 record of the immunization is made in accordance with the
3 regulations.

4 (c) Exemptions from immunization for medical reasons or
5 because of personal beliefs.

6 (d) For the keeping of adequate records of immunization so that
7 health departments, schools, and other institutions, parents or
8 guardians, and the persons immunized will be able to ascertain
9 that a child is fully or only partially immunized, and so that
10 appropriate public agencies will be able to ascertain the
11 immunization needs of groups of children in schools or other
12 institutions.

13 (e) Incentives to public health authorities to design innovative
14 and creative programs that will promote and achieve full and timely
15 immunization of children.

16 SEC. 3. Section 120335 of the Health and Safety Code is
17 amended to read:

18 120335. (a) As used in this chapter, but excluding Section
19 120380, and as used in Sections 120400, 120405, 120410, and
20 120415, the term “governing authority” means the governing board
21 of each school district or the authority of each other private or
22 public institution responsible for the operation and control of the
23 institution or the principal or administrator of each school or
24 institution.

25 (b) The governing authority shall not unconditionally admit any
26 person as a pupil of any private or public elementary or secondary
27 school, child care center, day nursery, nursery school, family day
28 care home, or development center, unless prior to his or her first
29 admission to that institution he or she has been fully immunized.
30 The following are the diseases for which immunizations shall be
31 documented:

- 32 (1) Diphtheria.
- 33 (2) Haemophilus influenzae type b.
- 34 (3) Measles.
- 35 (4) Mumps.
- 36 (5) Pertussis (whooping cough).
- 37 (6) Poliomyelitis.
- 38 (7) Rubella.
- 39 (8) Tetanus.
- 40 (9) Hepatitis B.

1 (10) Varicella (chickenpox), ~~effective July 1, 2001. This~~
2 ~~paragraph shall be operative only to the extent that funds for this~~
3 ~~purpose are appropriated in the annual Budget Act.~~

4 The department may adopt emergency regulations to implement
5 this paragraph including, but not limited to, requirements for
6 documentation and immunization status reports, in accordance
7 with the rulemaking provisions of the Administrative Procedure
8 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
9 Division 3 of Title 2 of the Government Code). The initial adoption
10 of emergency regulations shall be deemed to be an emergency and
11 considered by the Office of Administrative Law as necessary for
12 the immediate preservation of the public peace, health and safety,
13 or general welfare. Emergency regulations adopted pursuant to
14 this paragraph shall remain in effect for no more than 180 days.

15 (11) Any other disease deemed appropriate by the department,
16 taking into consideration the recommendations of the Advisory
17 Committee on Immunization Practices of the United States
18 Department of Health and Human Services, the American Academy
19 of Pediatrics, and the American Academy of Family Physicians.

20 (c) On and after July 1, 1999, the governing authority shall not
21 unconditionally admit any pupil to the 7th grade level, nor
22 unconditionally advance any pupil to the 7th grade level, of any
23 of the institutions listed in subdivision (b) unless the pupil has
24 been fully immunized against hepatitis B.

25 (d) The department may specify the immunizing agents which
26 may be utilized and the manner in which immunizations are
27 administered.