

AMENDED IN SENATE AUGUST 17, 2010

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY APRIL 28, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 354

**Introduced by Assembly ~~Member Arambula~~ *Members Arambula
and Fletcher***

February 19, 2009

An act to amend ~~Sections 120325 and~~ *Section 120325 of, and to amend, repeal, and add Section 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, pertussis (whooping cough), and varicella (chickenpox), ~~as well as~~ *and* 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.

Existing law prohibits the governing authority from unconditionally admitting, or advancing, a pupil into the 7th grade unless the pupil has been fully immunized against hepatitis B.

This bill would delete immunizations against hepatitis B as a 7th grade admission or advancement requirement and would, instead, prohibit the governing authority from unconditionally admitting, or advancing, a pupil into the 7th and, for one year, the 8th through 12th grades unless the pupil has been fully immunized, as prescribed, including, but not limited to, having received all pertussis boosters appropriate for that age.

By requiring school districts to comply with these requirements, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

- 1 SECTION 1. Section 120325 of the Health and Safety Code
- 2 is amended to read:
- 3 120325. In enacting this chapter, but excluding Section 120380,
- 4 and in enacting Sections 120400, 120405, 120410, and 120415, it
- 5 is the intent of the Legislature to provide:

1 (a) A means for the eventual achievement of total immunization
2 of appropriate age groups against the following childhood diseases:

- 3 (1) Diphtheria.
- 4 (2) Hepatitis B.
- 5 (3) Haemophilus influenzae type b.
- 6 (4) Measles.
- 7 (5) Mumps.
- 8 (6) Pertussis (whooping cough).
- 9 (7) Poliomyelitis.
- 10 (8) Rubella.
- 11 (9) Tetanus.
- 12 (10) Varicella (chickenpox).

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

18 (b) That the persons required to be immunized be allowed to
19 obtain immunizations from whatever medical source they so desire,
20 subject only to the condition that the immunization be performed
21 in accordance with the regulations of the department and that a
22 record of the immunization is made in accordance with the
23 regulations.

24 (c) Exemptions from immunization for medical reasons or
25 because of personal beliefs.

26 (d) For the keeping of adequate records of immunization so that
27 health departments, schools, and other institutions, parents or
28 guardians, and the persons immunized will be able to ascertain
29 that a child is fully or only partially immunized, and so that
30 appropriate public agencies will be able to ascertain the
31 immunization needs of groups of children in schools or other
32 institutions.

33 (e) Incentives to public health authorities to design innovative
34 and creative programs that will promote and achieve full and timely
35 immunization of children.

36 SEC. 2. Section 120335 of the Health and Safety Code is
37 amended to read:

38 120335. (a) As used in this chapter, but excluding Section
39 120380, and as used in Sections 120400, 120405, 120410, and
40 120415, the term “governing authority” means the governing board

1 of each school district or the authority of each other private or
2 public institution responsible for the operation and control of the
3 institution or the principal or administrator of each school or
4 institution.

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

- 12 (1) Diphtheria.
- 13 (2) Haemophilus influenzae type b.
- 14 (3) Measles.
- 15 (4) Mumps.
- 16 (5) Pertussis (whooping cough).
- 17 (6) Poliomyelitis.
- 18 (7) Rubella.
- 19 (8) Tetanus.
- 20 (9) Hepatitis B.
- 21 (10) Varicella (chickenpox).

22 (11) Any other disease deemed appropriate by the department,
23 taking into consideration the recommendations of the Advisory
24 Committee on Immunization Practices of the United States
25 Department of Health and Human Services, the American Academy
26 of Pediatrics, and the American Academy of Family Physicians.

27 ~~(e) On and after July 1, 1999, the governing authority shall not~~
28 ~~unconditionally admit any pupil to the 7th grade level, nor~~
29 ~~unconditionally advance any pupil to the 7th grade level, of any~~
30 ~~of the institutions listed in subdivision (b) unless the pupil has~~
31 ~~been fully immunized against hepatitis B.~~

32 *(c) Commencing July 1, 2011, notwithstanding subdivision (b),*
33 *full immunization against hepatitis B shall not be a condition by*
34 *which the governing authority admits or advances any pupil to the*
35 *7th grade level of any private or public elementary or secondary*
36 *school.*

37 *(d) Commencing July 1, 2011, the governing authority shall not*
38 *unconditionally admit or advance any pupil to the 7th through*
39 *12th grade levels, inclusive, of any private or public elementary*
40 *or secondary school unless the pupil has been fully immunized*

1 *against pertussis, including all pertussis boosters appropriate for*
2 *the pupil's age.*

3 ~~(d)~~

4 (e) The department may specify the immunizing agents which
5 may be utilized and the manner in which immunizations are
6 administered.

7 (f) *This section shall become inoperative on June 30, 2012, and*
8 *as of January 1, 2013, is repealed, unless a later enacted statute,*
9 *that is enacted before January 1, 2013, deletes or extends that*
10 *date.*

11 (g) *The department may adopt emergency regulations to*
12 *implement subdivisions (c) and (d) including, but not limited to,*
13 *requirements for documentation and immunization status reports,*
14 *in accordance with the rulemaking provisions of the Administrative*
15 *Procedure Act (Chapter 3.5 (commencing with Section 11340) of*
16 *Part 1 of Division 3 of Title 2 of the Government Code). The initial*
17 *adoption of emergency regulations shall be deemed to be an*
18 *emergency and considered by the Office of Administrative Law as*
19 *necessary for the immediate preservation of the public peace,*
20 *health and safety, or general welfare. Emergency regulations*
21 *adopted pursuant to this subdivision shall remain in effect for no*
22 *more than 180 days.*

23 SEC. 3. *Section 120335 is added to the Health and Safety Code,*
24 *to read:*

25 120335. (a) *As used in this chapter, but excluding Section*
26 *120380, and as used in Sections 120400, 120405, 120410, and*
27 *120415, the term "governing authority" means the governing*
28 *board of each school district or the authority of each other private*
29 *or public institution responsible for the operation and control of*
30 *the institution or the principal or administrator of each school or*
31 *institution.*

32 (b) *The governing authority shall not unconditionally admit any*
33 *person as a pupil of any private or public elementary or secondary*
34 *school, child care center, day nursery, nursery school, family day*
35 *care home, or development center, unless prior to his or her first*
36 *admission to that institution he or she has been fully immunized.*
37 *The following are the diseases for which immunizations shall be*
38 *documented:*

39 (1) *Diphtheria.*

40 (2) *Haemophilus influenzae type b.*

- 1 (3) *Measles.*
- 2 (4) *Mumps.*
- 3 (5) *Pertussis (whooping cough).*
- 4 (6) *Poliomyelitis.*
- 5 (7) *Rubella.*
- 6 (8) *Tetanus.*
- 7 (9) *Hepatitis B.*
- 8 (10) *Varicella (chickenpox).*
- 9 (11) *Any other disease deemed appropriate by the department,*
- 10 *taking into consideration the recommendations of the Advisory*
- 11 *Committee on Immunization Practices of the United States*
- 12 *Department of Health and Human Services, the American Academy*
- 13 *of Pediatrics, and the American Academy of Family Physicians.*
- 14 (c) *Notwithstanding subdivision (b), full immunization against*
- 15 *hepatitis B shall not be a condition by which the governing*
- 16 *authority shall admit or advance any pupil to the 7th grade level*
- 17 *of any private or public elementary or secondary school.*
- 18 (d) *The governing authority shall not unconditionally admit or*
- 19 *advance any pupil to the 7th grade level of any private or public*
- 20 *elementary or secondary school unless the pupil has been fully*
- 21 *immunized against pertussis, including all pertussis boosters*
- 22 *appropriate for the pupil's age.*
- 23 (e) *The department may specify the immunizing agents which*
- 24 *may be utilized and the manner in which immunizations are*
- 25 *administered.*
- 26 (f) *This section shall become operative on July 1, 2012.*
- 27 SEC. 4. *If the Commission on State Mandates determines that*
- 28 *this act contains costs mandated by the state, reimbursement to*
- 29 *local agencies and school districts for those costs shall be made*
- 30 *pursuant to Part 7 (commencing with Section 17500) of Division*
- 31 *4 of Title 2 of the Government Code.*