

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

AMENDED IN ASSEMBLY MARCH 19, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2009

Introduced by Assembly Member Galgiani

February 23, 2012

An act to amend Section 104900 of the Health and Safety Code, relating to communicable disease.

LEGISLATIVE COUNSEL'S DIGEST

AB 2009, as amended, Galgiani. Communicable disease: influenza vaccinations.

Under existing law, the State Department of Public Health administers various programs for the protection of public health. The department provides a biennial report to the Legislature on the immunization status of young children in California.

Existing law requires the State Department of Public Health to provide appropriate flu vaccine to local governmental or private nonprofit agencies at no charge in order that the agencies may provide the vaccine, at a minimal cost, at accessible locations in the order of priority first for all persons 60 years of age or older in this state and then to any other high-risk groups identified by the United States Public Health Service. The department and the California Department of Aging are required to prepare, publish, and disseminate information regarding the availability of the vaccine and the effectiveness of the vaccine in protecting the health of older persons.

This bill would ~~include persons who are not more than 18 years of age among those who have priority to receive the vaccine, instead, give priority to persons within high-risk groups, as defined by the department based upon specified federal recommendations or, in the absence of these recommendations, based upon the need to protect persons who are at the greatest risk of harm from the influenza virus.~~ The bill would make findings and declarations regarding the transmission of influenza by children to adults and the elderly.

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 hereby finds and declares all of
2 the following:

3 (a) The federal Centers for Disease Control and Prevention
4 (CDC) recommend annual seasonal influenza vaccination for all
5 persons six months of age and older.

6 (b) Current law related to prioritization for influenza vaccines
7 is outdated and needs to be updated to reflect current CDC
8 recommendations.

9 (c) Children have the highest rates of influenza infection and
10 schoolaged children are the major vectors for influenza
11 transmission that spread the virus to adults and the elderly in the
12 community.

13 (d) Eligible low-income and uninsured children can access
14 vaccine at no cost through the federally funded Vaccines for
15 Children (VFC) Program.

16 SEC. 2. Section 104900 of the Health and Safety Code is
17 amended to read:

18 104900. (a) The department shall provide appropriate flu
19 vaccine to local governmental or private, nonprofit agencies at no
20 charge in order that the agencies may provide the vaccine, at a
21 minimal cost, at accessible locations in the order of priority ~~first,~~
22 ~~for all persons who are not more than 18 years of age and persons~~
23 ~~who are at least 60 years of age in this state and then to any other~~
24 ~~to persons within high-risk groups identified by the United States~~
25 ~~Public Health Service, as defined by the department, based upon~~
26 ~~the influenza recommendations of the federal Centers for Disease~~
27 ~~Control and Prevention or, in the absence of federal~~

1 *recommendation, based upon the need to protect persons who are*
2 *at the greatest risk of harm from the influenza virus.* The
3 department and the California Department of Aging shall prepare,
4 publish, and disseminate information regarding the availability of
5 the vaccine and the effectiveness of the vaccine in protecting the
6 health of older persons.

7 (b) The department may provide appropriate pneumonia vaccine
8 to local governmental or private nonprofit agencies at no charge
9 in order that the agencies may provide the vaccine, at a minimal
10 cost, at accessible locations for groups identified as high risk by
11 the United States Public Health Service.

12 (c) The program shall be designed to use voluntary assistance
13 from public or private sectors in administering the vaccines.
14 However, local governmental or private, nonprofit agencies may
15 charge and retain a fee not exceeding two dollars (\$2) per person
16 to offset administrative operating costs.

17 (d) Except when the department determines that it is not feasible
18 to use federal funds due to excessive administrative costs, the
19 department shall seek and use available federal funds to the
20 maximum extent possible for the cost of the vaccine, the cost of
21 administering the vaccine, and the minimal fee charged under this
22 section, including reimbursement under the Medi-Cal program for
23 persons eligible therefor to the extent permitted by federal law.

24 (e) Administration of the vaccine shall be performed by a
25 physician, a registered nurse, or a licensed vocational nurse acting
26 within the scope of their professional practice acts. The physician
27 under whose direction the registered nurse or a licensed vocational
28 nurse is acting shall require the nurse to satisfactorily demonstrate
29 familiarity with (1) contraindication for the administration of ~~such~~
30 *these* immunizing agents, (2) treatment of possible anaphylactic
31 reactions, and (3) the administration of treatment and reactions to
32 ~~such~~ *these* immunizing agents.

33 (f) A private, nonprofit volunteer agency whose involvement
34 with an immunization program governed by this section is limited
35 to the provision of a clinic site or promotional and logistical support
36 pursuant to subdivision (c), or any employee or member thereof,
37 shall not be liable for any injury caused by an act or omission in
38 the administration of the vaccine or other immunizing agent to a
39 person 60 years of age or older or to members of high-risk groups
40 identified by the United States Public Health Service, if the

1 immunization is performed pursuant to this section in conformity
2 with applicable federal, state, or local governmental standards and
3 the act or omission does not constitute willful misconduct or gross
4 negligence. As used in this subdivision, “injury” includes the
5 residual effects of the vaccine or other immunizing agent. It is the
6 intent of the Legislature in adding this subdivision to affect only
7 the liability of private, nonprofit volunteer agencies and their
8 members that are not health facilities, as defined in Section 1250.
9 (g) This section shall not be construed to require physical
10 presence of a directing or supervising physician, or the examination
11 by a physician of persons to be tested or immunized.