

AMENDED IN ASSEMBLY JULY 1, 2011

AMENDED IN SENATE APRIL 26, 2011

AMENDED IN SENATE APRIL 6, 2011

SENATE BILL

No. 614

**Introduced by Senator Kehoe
(Principal coauthor: Senator Alquist)**

February 18, 2011

An act to amend Section ~~8483.3~~ 120335 of the ~~Education Health and Safety Code~~, relating to ~~child care immunization~~, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 614, as amended, Kehoe. ~~Child care: After School Education and Safety Program: age- and gender-appropriate self-defense and safety awareness training.~~ *Childhood immunization.*

Existing law, commencing July 1, 2011, until June 30, 2012, prohibits a defined governing authority from unconditionally admitting or advancing any pupil to the 7th through 12th grade levels of any private or public elementary or secondary school unless the pupil has been fully immunized against pertussis, including all pertussis boosters appropriate for the pupil's age.

This bill would make the commencement date of this provision, instead, January 1, 2012, and would make related changes.

This bill would declare that it is to take effect immediately as an urgency statute.

Existing law, the After School Education and Safety Program Act of 2002, enacted by initiative statute, establishes the After School Education and Safety Program to serve pupils in kindergarten and grades

~~1 to 9, inclusive, at participating public elementary, middle, junior high, and charter schools. The existing act provides a formula for determining an amount to be continuously appropriated from the General Fund to the State Department of Education for purposes of the program. Existing law requires applicants for grants pursuant to the program to certify that the program will provide opportunities for physical activity.~~

~~This bill would specify that those opportunities for physical activity may include age- and gender-appropriate self-defense and safety awareness training.~~

~~The existing act authorizes the Legislature to amend certain of its provisions to further its purposes by majority vote of each house.~~

~~This bill would set forth a legislative finding and declaration that the proposed amendments further the purposes of the existing act.~~

~~Vote: majority²/₃. Appropriation: no. Fiscal committee: no. State-mandated local program: no.~~

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

1 SECTION 1. Section 120335 of the Health and Safety Code,
2 as amended by Section 2 of Chapter 434 of the Statutes of 2010,
3 is amended to read:

4 120335. (a) As used in this chapter, but excluding Section
5 120380, and as used in Sections 120400, 120405, 120410, and
6 120415, the term “governing authority” means the governing board
7 of each school district or the authority of each other private or
8 public institution responsible for the operation and control of the
9 institution or the principal or administrator of each school or
10 institution.

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

- 18 (1) Diphtheria.
- 19 (2) Haemophilus influenzae type b.
- 20 (3) Measles.
- 21 (4) Mumps.
- 22 (5) Pertussis (whooping cough).

1 (6) Poliomyelitis.

2 (7) Rubella.

3 (8) Tetanus.

4 (9) Hepatitis B.

5 (10) Varicella (chickenpox).

6 (11) Any other disease deemed appropriate by the department,
7 taking into consideration the recommendations of the Advisory
8 Committee on Immunization Practices of the United States
9 Department of Health and Human Services, the American Academy
10 of Pediatrics, and the American Academy of Family Physicians.

11 (c) Commencing July 1, 2011, notwithstanding subdivision (b),
12 full immunization against hepatitis B shall not be a condition by
13 which the governing authority admits or advances any pupil to the
14 7th grade level of any private or public elementary or secondary
15 school.

16 (d) Commencing ~~July 1, 2011~~ *January 1, 2012*, the governing
17 authority shall not unconditionally admit ~~or~~, advance, *or allow to*
18 *continue to attend classes* any pupil ~~to~~ in the 7th through 12th
19 grade levels, inclusive, of any private or public elementary or
20 secondary school unless the pupil has been fully immunized against
21 pertussis, including all pertussis boosters appropriate for the pupil's
22 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 inoperative on June 30, 2012, and
27 as of January 1, 2013, is repealed, unless a later enacted statute,
28 that is enacted before January 1, 2013, deletes or extends that date.

29 (g) The department may adopt emergency regulations to
30 implement subdivisions (c) and (d) including, but not limited to,
31 requirements for documentation and immunization status reports,
32 in accordance with the rulemaking provisions of the Administrative
33 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
34 Part 1 of Division 3 of Title 2 of the Government Code). The initial
35 adoption of emergency regulations shall be deemed to be an
36 emergency and considered by the Office of Administrative Law
37 as necessary for the immediate preservation of the public peace,
38 health and safety, or general welfare. Emergency regulations
39 adopted pursuant to this subdivision shall remain in effect for no
40 more than 180 days.

1 *SEC. 2. This act is an urgency statute necessary for the*
2 *immediate preservation of the public peace, health, or safety within*
3 *the meaning of Article IV of the Constitution and shall go into*
4 *immediate effect. The facts constituting the necessity are:*

5 *In order to prevent significant educational disadvantages to*
6 *students and significant fiscal hardships to schools related to*
7 *absenteeism due to the lack of student verification of pertussis*
8 *immunization at the start of the 2011–12 school year, it is*
9 *necessary that this act take effect immediately.*

10 ~~SECTION 1. Section 8483.3 of the Education Code, as~~
11 ~~amended by Section 18 of Chapter 380 of the Statutes of 2006, is~~
12 ~~amended to read:~~

13 ~~8483.3. (a) The department shall select applicants to participate~~
14 ~~in the program established pursuant to this article from among~~
15 ~~applicants that apply on forms and in a manner prescribed by the~~
16 ~~department. It is the intent of the Legislature that the manner~~
17 ~~prescribed by the department, to the extent possible, allow for short~~
18 ~~and concise applicant responses. To the extent possible, the~~
19 ~~selection of applicants by the department shall result in an equitable~~
20 ~~distribution of grant awards pursuant to Section 8483.7 to~~
21 ~~applicants in northern, southern, and central California, and in~~
22 ~~urban, suburban, and rural areas of California.~~

23 ~~(b) The department shall consider the following in selecting~~
24 ~~schools to participate in the program established pursuant to this~~
25 ~~article:~~

26 ~~(1) Percentage of pupils eligible for free and reduced lunch.~~

27 ~~(2) Other indicators of need for the program, including, but not~~
28 ~~limited to, socioeconomic status of the neighborhoods in which~~
29 ~~participating pupils reside, the percentage of English language~~
30 ~~learners at the school, and the availability of programs in the~~
31 ~~community in which participating pupils reside.~~

32 ~~(c) The application shall certify all of the following:~~

33 ~~(1) Inclusion of an educational element.~~

34 ~~(2) Inclusion of an enrichment element. These opportunities~~
35 ~~may include arts, career technical education, recreation, technology,~~
36 ~~and other activities to support positive youth development.~~

37 ~~(3) That the program will provide a safe physical and emotional~~
38 ~~environment and opportunities for relationship building, and~~
39 ~~promote active pupil engagement.~~

40 ~~(4) Staff training and development will be provided.~~

- 1 ~~(5) Integration with the regular schoolday and other extended~~
- 2 ~~learning opportunities.~~
- 3 ~~(6) Community collaboration, including, but not limited to,~~
- 4 ~~demonstrated support of the schoolsite principal and staff.~~
- 5 ~~(7) Opportunities for physical activity, which may include age-~~
- 6 ~~and gender-appropriate self-defense and safety awareness training.~~
- 7 ~~(8) Inclusion of a nutritional snack.~~
- 8 ~~(9) Fiscal accountability.~~
- 9 ~~(10) Availability of required local matching funds.~~
- 10 ~~(11) That the program will meet all of the evaluation~~
- 11 ~~requirements.~~
- 12 ~~(d) Subdivision (b) does not apply to an applicant school that~~
- 13 ~~meets the priority criteria described in subdivision (a) of Section~~
- 14 ~~8482.5.~~
- 15 ~~SEC. 2. The Legislature finds and declares that this act furthers~~
- 16 ~~the purposes of the After School Education and Safety Program~~
- 17 ~~Act of 2002.~~