

AMENDED IN ASSEMBLY JULY 12, 2011

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)
(Coauthors: Senators Calderon and Padilla)

February 18, 2011

An act to ~~amend Section 120335~~ *add and repeal Section 120335.1* of the Health and Safety Code, relating to immunization, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 614, as amended, Kehoe. Childhood immunization.

Existing law, commencing July 1, 2011, until June 30, 2012, prohibits a defined governing authority, *which includes the authority of a private institution*, 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, *until June 30, 2012*, ~~make the commencement date of this provision, instead, January 1, 2012, and would make related changes~~ *authorize the county office of education, the governing board of a school district, or the governing body of a charter school to allow a pupil, advancing to or enrolled in any of grades 7 through 12, inclusive, to conditionally attend school for up to 30 calendar days, as*

specified, if that pupil has not been fully immunized with all pertussis boosters appropriate for the pupil’s age if specified conditions are met.

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

Vote: $\frac{2}{3}$. 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 120335.1 is added to the Health and
2 Safety Code, to read:

3 120335.1. (a) Notwithstanding Section 120335, the county
4 office of education, the governing board of a school district of
5 attendance, or the governing body of a charter school may allow
6 a pupil, advancing to or enrolled in any of grades 7 through 12,
7 inclusive, to conditionally attend school for up to 30 calendar
8 days, commencing with the pupil’s first day of attendance in the
9 2011–12 school year for that county office of education or school
10 district, if that pupil has not been fully immunized with all pertussis
11 boosters appropriate for the pupil’s age and if all of the following
12 conditions are met:

13 (1) The pupil was enrolled in the county office of education or
14 school district in the prior year, and is continuing in the same or
15 advancing to the next grade level.

16 (2) The pupil’s first day of attendance in 2011–12 school year
17 for that county office of education or school district occurs on or
18 before the sixth Friday following the first day on which classes
19 are offered at the school in which the pupil is enrolled.

20 (3) The county office of education or school district work with
21 the pupil’s parent or legal guardian so that the pupil receives all
22 immunizations or boosters necessary for continued attendance.

23 (b) It is the intent of the Legislature that any pupil allowed to
24 conditionally attend pursuant to subdivision (a) be fully immunized
25 pursuant to this chapter on or before the 30th day of conditional
26 attendance allowed.

27 (c) This section shall become inoperative on July 1, 2012, and
28 as of January 1, 2013, is repealed, unless a later enacted statute
29 that is enacted before January 1, 2013, deletes or extends the dates
30 on which it becomes inoperative and is repealed.

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).~~
- 23 ~~(6) Poliomyelitis.~~
- 24 ~~(7) Rubella.~~
- 25 ~~(8) Tetanus.~~
- 26 ~~(9) Hepatitis B.~~
- 27 ~~(10) Varicella (chickenpox).~~

28 ~~(11) Any other disease deemed appropriate by the department,~~
29 ~~taking into consideration the recommendations of the Advisory~~
30 ~~Committee on Immunization Practices of the United States~~
31 ~~Department of Health and Human Services, the American Academy~~
32 ~~of Pediatrics, and the American Academy of Family Physicians.~~

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

38 ~~(d) Commencing January 1, 2012, the governing authority shall~~
39 ~~not unconditionally admit, advance, or allow to continue to attend~~
40 ~~classes any pupil in the 7th through 12th grade levels, inclusive,~~

1 of any private or public elementary or secondary school unless the
2 pupil has been fully immunized against pertussis, including all
3 pertussis boosters appropriate for the pupil's age.

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 date.

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

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

26 In order to prevent significant educational disadvantages to
27 students and significant fiscal hardships to schools related to
28 absenteeism due to the lack of student verification of pertussis
29 immunization at the start of the 2011–12 school year, it is necessary
30 that this act take effect immediately.