

AMENDED IN ASSEMBLY APRIL 14, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2786

**Introduced by Committee on Health (~~Jones~~ *Monning* (Chair),
Fletcher (Vice Chair), ~~Adams~~, ~~Ammiano~~, ~~Block~~, Carter, Conway,
De La Torre, De Leon, Emmerson, ~~Hall~~, *Eng*, Hayashi,
Hernandez, *Jones*, Bonnie Lowenthal, Nava, V. Manuel Perez,
and Salas, and *Smyth*)**

March 9, 2010

An act to amend Section 120130 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2786, as amended, Committee on Health. List of reportable diseases and conditions.

Existing law requires the State Department of Public Health to establish a list of reportable communicable and noncommunicable diseases and conditions, including, but not limited to, diphtheria, listeria, salmonella, shigella, and streptococcal infection in food handlers or dairy workers, and typhoid. Existing law requires reporting by the local health officer of any disease or condition on the list. Existing law prohibits the imposition of any penalty or other adverse action based upon the failure to report unless the name of the disease or condition has been printed in the California Code of Regulations for a period of at least 6 months. Violation of these provisions is a crime.

This bill would delete the specified list of required reportable diseases and conditions. The bill would require the department to establish a list of communicable diseases and conditions for which clinical laboratories

are required to submit a culture or specimen to local and state public health laboratories, as specified.

Under existing law, no civil or criminal penalty, fine, sanction, finding, or denial, suspension, or revocation of licensure may be imposed on any person or facility based upon failure to provide notification of a reportable disease or condition unless the disease or condition was printed in the California Code of Regulations at least 6 months prior to the date of the claimed failure.

This bill would limit the above exemption to a licensed physician and surgeon or a clinical laboratory, and would extend the exemption to the submission of a culture or specimen, as required, and would require notification of the licensed physician and surgeon or clinical laboratory by the department and publication in the California Code of Regulations at least 6 months prior to the date of the claimed failure before a penalty, fine, sanction, finding, or denial, suspension, or revocation of licensure may be imposed.

To the extent that this bill would increase the duties of the local public health officer, and would change the definition of an existing crime, 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The intent of the Legislature is to enable prompt
- 4 identification of an outbreak, and rapid reporting and laboratory
- 5 identification during an outbreak situation, the emergence of a new
- 6 disease or condition, or the recognition of an identified disease or
- 7 condition that may constitute a danger to the public's health.

1 During this outbreak situation, it is absolutely imperative that
2 positive specimens be sent to the public health laboratory for
3 definitive identification, subtyping, strain typing, or DNA
4 fingerprinting. The public health laboratory must obtain the
5 necessary specimens from all sources in order to be able to quickly
6 identify the organisms causing illnesses and compare the subtypes,
7 thus allowing a timely public health response.

8 (b) By authorizing the State Department of Public Health to
9 quickly change the list of specimens that must be submitted to the
10 public health laboratory without going through the administrative
11 regulation and rulemaking process, this process would enable the
12 department to include newly emerging diseases and conditions in
13 a timely manner. Having this authority will allow a more rapid
14 response by public health officers to an emerging communicable
15 disease or outbreak.

16 (c) Recently, there have been several outbreaks of communicable
17 diseases affecting the health of the public for which rapid
18 identification, subtyping of the organism, and immediate public
19 health response have been necessary. The most recent of these
20 episodes include E. coli in spinach and salmonella in peanut butter,
21 both affecting the health of a large number of people, nationwide.

22 (d) Without the ability to rapidly change the requirements for
23 submission of specimens for testing, the identification of the
24 organism causing the outbreak and the public health response
25 would be significantly hampered.

26 SEC. 2. Section 120130 of the Health and Safety Code is
27 amended to read:

28 120130. (a) The department shall establish a list of reportable
29 diseases and conditions. For each reportable disease and condition,
30 the department shall specify the timeliness requirements related
31 to the reporting of each disease and condition, and the mechanisms
32 required for, and the content to be included in, reports made
33 pursuant to this section. The list of reportable diseases and
34 conditions may include both communicable and noncommunicable
35 diseases. The list may include those diseases that are either known
36 to be, or suspected of being, transmitted by milk or milk-based
37 products. The list may be modified at any time by the department,
38 after consultation with the California Conference of Local Health
39 Officers. Modification of the list shall be exempt from the
40 administrative regulation and rulemaking requirements of Chapter

1 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
2 Title 2 of the Government Code, and shall be implemented without
3 being adopted as a regulation, except that the revised list shall be
4 filed with the Secretary of State and printed in the California Code
5 of Regulations as required ~~under~~ *pursuant to* subdivision (e). Those
6 diseases listed as reportable shall be properly reported as required
7 to the department by the health officer.

8 (b) The department shall establish a list of communicable
9 diseases and conditions for which clinical laboratories shall submit
10 a culture or a specimen to the local public health laboratory to
11 undergo characterization. The list shall set forth the conditions
12 under which the culture and specimen shall also be submitted to
13 the state public health laboratory to undergo further
14 characterization. The list may be modified at any time by the
15 department, after consultation with the California Conference of
16 Local Health Officers and the California Association of Public
17 Health Laboratory Directors. Both establishment and modification
18 of the list shall be exempt from the administrative regulation and
19 rulemaking requirements of Chapter 3.5 (commencing with Section
20 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
21 and shall be implemented without being adopted as a regulation,
22 except that the initial list and any modifications shall be filed with
23 the Secretary of State and printed in the California Code of
24 Regulations as required ~~under~~ *pursuant to* subdivision (e).

25 (c) The department may from time to time adopt and enforce
26 regulations requiring strict or modified isolation, or quarantine,
27 for any of the contagious, infectious, or communicable diseases,
28 if in the opinion of the department the action is necessary for the
29 protection of the public health.

30 (d) The health officer may require strict or modified isolation,
31 or quarantine, for any case of contagious, infectious, or
32 communicable disease, when this action is necessary for the
33 protection of the public health.

34 (e) The lists established pursuant to subdivisions (a) and (b) and
35 any subsequent modifications shall be published in Title 17 of the
36 California Code of Regulations.

37 (f) Notwithstanding any other provision of law, no civil or
38 criminal penalty, fine, sanction, finding, or denial, suspension, or
39 revocation of licensure for any licensed physician and surgeon or
40 clinical laboratory may be imposed based upon a failure to provide

1 the notification of a reportable disease or condition or to provide
2 the submission of a culture or specimen that is required ~~under~~
3 *pursuant to* this section, unless the name of the disease or condition
4 that is required to be reported or for which a culture or specimen
5 is required to be submitted was printed in the California Code of
6 Regulations and the department notified the licensed physician
7 and surgeon or clinical laboratory of the disease or condition at
8 least six months prior to the date of the claimed failure to report
9 or submit.

10 (g) Commencing July 1, 2009, or within one year of the
11 establishment of a state electronic laboratory reporting system,
12 whichever is later, a report generated pursuant to this section by
13 a laboratory shall be submitted electronically in a manner specified
14 by the department, except that this electronic reporting requirement
15 shall not apply to reports of HIV infections. The department shall
16 allow laboratories that receive incomplete patient information to
17 report the name of the provider who submitted the request to the
18 local health officer.

19 (h) The department may, on its Internet Web site and via
20 electronic mail, advise out-of-state laboratories that are known to
21 the department to test specimens from California residents of the
22 new reporting requirements.

23 SEC. 3. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution for certain
25 costs that may be incurred by a local agency or school district
26 because, in that regard, this act creates a new crime or infraction,
27 eliminates a crime or infraction, or changes the penalty for a crime
28 or infraction, within the meaning of Section 17556 of the
29 Government Code, or changes the definition of a crime within the
30 meaning of Section 6 of Article XIII B of the California
31 Constitution.

32 However, if the Commission on State Mandates determines that
33 this act contains other costs mandated by the state, reimbursement
34 to local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.