



209710

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/01/2009	.	
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	.	
	.	

The Committee on Health Regulation (Bennett) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (e) of subsection (1) of section 381.003, Florida Statutes, is amended to read:

381.003 Communicable disease and AIDS prevention and control.—

(1) The department shall conduct a communicable disease prevention and control program as part of fulfilling its public health mission. A communicable disease is any disease caused by



209710

12 transmission of a specific infectious agent, or its toxic
13 products, from an infected person, an infected animal, or the
14 environment to a susceptible host, either directly or
15 indirectly. The communicable disease program must include, but
16 need not be limited to:

17 (e) Programs for the prevention and control of vaccine-
18 preventable diseases, including programs to immunize school
19 children as required by s. 1003.22(3)-(13) ~~s. 1003.22(3)-(11)~~
20 and the development of an automated, electronic, and centralized
21 database or registry of immunizations. The department shall
22 ensure that all children in this state are immunized against
23 vaccine-preventable diseases. The immunization registry shall
24 allow the department to enhance current immunization activities
25 for the purpose of improving the immunization of all children in
26 this state.

27 1. Except as provided in subparagraph 2., the department
28 shall include all children born in this state in the
29 immunization registry by using the birth records from the Office
30 of Vital Statistics. The department shall add other children to
31 the registry as immunization services are provided.

32 2. The parent or guardian of a child may refuse to have the
33 child included in the immunization registry by signing a form
34 obtained from the department, or from the health care
35 practitioner or entity that provides the immunization, which
36 indicates that the parent or guardian does not wish to have the
37 child included in the immunization registry. The decision to not
38 participate in the immunization registry must be noted in the
39 registry.

40 3. The immunization registry shall allow for immunization



209710

41 records to be electronically transferred to entities that are
42 required by law to have such records, including schools,
43 licensed child care facilities, and any other entity that is
44 required by law to obtain proof of a child's immunizations.

45 4. Any health care practitioner licensed under chapter 458,
46 chapter 459, or chapter 464 in this state who complies with
47 rules adopted by the department to access the immunization
48 registry may, through the immunization registry, directly access
49 immunization records and update a child's immunization history
50 or exchange immunization information with another authorized
51 practitioner, entity, or agency involved in a child's care. The
52 information included in the immunization registry must include
53 the child's name, date of birth, address, and any other unique
54 identifier necessary to correctly identify the child; the
55 immunization record, including the date, type of administered
56 vaccine, and vaccine lot number; and the presence or absence of
57 any adverse reaction or contraindication related to the
58 immunization. Information received by the department for the
59 immunization registry retains its status as confidential medical
60 information and the department must maintain the confidentiality
61 of that information as otherwise required by law. A health care
62 practitioner or other agency that obtains information from the
63 immunization registry must maintain the confidentiality of any
64 medical records in accordance with s. 456.057 or as otherwise
65 required by law.

66 Section 2. Subsection (30) is added to section 499.005,
67 Florida Statutes, to read:

68 499.005 Prohibited acts.—It is unlawful for a person to
69 perform or cause the performance of any of the following acts in



209710

70 this state:

71 (30) The sale, purchase, manufacture, delivery,
72 importation, administration, or distribution of any vaccine that
73 contains any organic or inorganic mercury compound in excess of
74 0.1 microgram per milliliter.

75 Section 3. Paragraph (b) of subsection (3) of section
76 1002.20, Florida Statutes, is amended to read:

77 1002.20 K-12 student and parent rights.—Parents of public
78 school students must receive accurate and timely information
79 regarding their child's academic progress and must be informed
80 of ways they can help their child to succeed in school. K-12
81 students and their parents are afforded numerous statutory
82 rights including, but not limited to, the following:

83 (3) HEALTH ISSUES.—

84 (b) *Immunizations*.—The parent of any child attending a
85 public or private school shall be exempt from the school
86 immunization requirements upon meeting any of the exemptions in
87 accordance with the provisions of s. 1003.22(6) ~~s. 1003.22(5)~~.

88 Section 4. Paragraph (a) of subsection (6) of section
89 1002.42, Florida Statutes, is amended to read:

90 1002.42 Private schools.—

91 (6) IMMUNIZATIONS.—The governing authority of each private
92 school shall:

93 (a) Require students to present a certification of
94 immunization in accordance with the provisions of s. 1003.22(3)-
95 (13) ~~s. 1003.22(3)-(11)~~.

96 Section 5. Section 1003.22, Florida Statutes, is amended to
97 read:

98 1003.22 School-entry health examinations; immunization



209710

99 against communicable diseases; exemptions; duties of Department
100 of Health.—

101 (1) Each district school board and the governing authority
102 of each private school shall require that each child who is
103 entitled to admittance to kindergarten, or is entitled to any
104 other initial entrance into a public or private school in this
105 state, present a certification of a school-entry health
106 examination performed within 1 year prior to enrollment in
107 school. Each district school board, and the governing authority
108 of each private school, may establish a policy that permits a
109 student up to 30 school days to present a certification of a
110 school-entry health examination. A homeless child, as defined in
111 s. 1003.01, shall be given a temporary exemption for 30 school
112 days. Any district school board that establishes such a policy
113 shall include provisions in its local school health services
114 plan to assist students in obtaining the health examinations.
115 However, any child shall be exempt from the requirement of a
116 health examination upon written request of the parent of the
117 child stating objections to the examination on religious
118 grounds.

119 (2) The State Board of Education, subject to the
120 concurrence of the Department of Health, shall adopt rules to
121 govern medical examinations and immunizations performed under
122 this section.

123 (3) The Department of Health may adopt rules necessary to
124 administer and enforce this section. The Department of Health,
125 after consultation with the Department of Education, shall adopt
126 rules governing the immunization of children against, the
127 testing for, and the control of preventable communicable



209710

128 diseases. The rules must include procedures for exempting a
129 child from immunization requirements. Immunizations shall be
130 required for poliomyelitis, diphtheria, rubeola, rubella,
131 pertussis, mumps, tetanus, and other communicable diseases as
132 determined by rules of the Department of Health. The manner and
133 frequency of administration of the immunization or testing shall
134 conform to recognized standards of medical practice. The
135 Department of Health shall supervise and secure the enforcement
136 of the required immunization. Immunizations required by this
137 section shall be available at no cost from the county health
138 departments.

139 (4) Each district school board and the governing authority
140 of each private school shall establish and enforce as policy
141 that, prior to admittance to or attendance in a public or
142 private school, grades kindergarten through 12, or any other
143 initial entrance into a Florida public or private school, each
144 child present or have on file with the school a certification of
145 immunization for the prevention of those communicable diseases
146 for which immunization is required by the Department of Health
147 and further shall provide for appropriate screening of its
148 students for scoliosis at the proper age. Such certification
149 shall be made on forms approved and provided by the Department
150 of Health and shall become a part of each student's permanent
151 record, to be transferred when the student transfers, is
152 promoted, or changes schools. The transfer of such immunization
153 certification by Florida public schools shall be accomplished
154 using the Florida Automated System for Transferring Education
155 Records and shall be deemed to meet the requirements of this
156 section.



209710

157 (5) In vaccinating his or her child, a parent, legal
158 guardian, or other authorized person, in consultation with his
159 or her pediatrician, has the right to choose an alternative
160 immunization schedule to the immunization schedule recommended
161 by the Centers for Disease Control and Prevention, as long as
162 the child is vaccinated before beginning school.

163 ~~(6)~~ (5) The provisions of this section shall not apply if:

164 (a) The parent of the child objects in writing that the
165 administration of immunizing agents conflicts with his or her
166 religious tenets or practices;

167 (b) A physician licensed under the provisions of chapter
168 458 or chapter 459 certifies in writing, on a form approved and
169 provided by the Department of Health, that the child should be
170 permanently exempt from the required immunization for medical
171 reasons stated in writing, based upon valid clinical reasoning
172 or evidence, demonstrating the need for the permanent exemption;

173 (c) A physician licensed under the provisions of chapter
174 458, chapter 459, or chapter 460 certifies in writing, on a form
175 approved and provided by the Department of Health, that the
176 child has received as many immunizations as are medically
177 indicated at the time and is in the process of completing
178 necessary immunizations;

179 (d) The Department of Health determines that, according to
180 recognized standards of medical practice, any required
181 immunization is unnecessary or hazardous; or

182 (e) An authorized school official issues a temporary
183 exemption, for a period not to exceed 30 school days, to permit
184 a student who transfers into a new county to attend class until
185 his or her records can be obtained. A homeless child, as defined



209710

186 in s. 1003.01, shall be given a temporary exemption for 30
187 school days. The public school health nurse or authorized
188 private school official is responsible for followup of each such
189 student until proper documentation or immunizations are
190 obtained. An exemption for 30 days may be issued for a student
191 who enters a juvenile justice program to permit the student to
192 attend class until his or her records can be obtained or until
193 the immunizations can be obtained. An authorized juvenile
194 justice official is responsible for followup of each student who
195 enters a juvenile justice program until proper documentation or
196 immunizations are obtained.

197 (7) Before the administration of an immunization required
198 by this section, a licensed health care provider must:

199 (a) Provide the child's parent, legal guardian, or other
200 authorized person with a copy of the current vaccine information
201 statement published about the vaccine by the Centers for Disease
202 Control and Prevention of the United States Department of Health
203 and Human Services;

204 (b) Have the child's parent, legal guardian, or other
205 authorized person sign a statement in substantially the
206 following form:

207
208 I have received a copy of the vaccine information
209 statement published by the Centers for Disease Control
210 and Prevention. I have read or have had explained to
211 me information about the vaccine to be administered,
212 the benefits and risks of the vaccine, how to report
213 an adverse reaction, the availability of the National
214 Vaccine Injury Compensation Program, and how to get



215 more information about childhood diseases and
216 vaccines. I understand the benefits of the vaccine and
217 ask that the vaccine be administered to ...(name of
218 minor child)..., for whom I am authorized to make this
219 request.

220 Signature: ...(signature)....
221 Name: ...(printed name of parent, legal guardian,
222 or other authorized person)....
223 Date: ...(date)....
224

225 (c) Keep a copy of the parent's, legal guardian's, or
226 authorized person's signed statement as part of the minor
227 child's permanent medical record; and

228 (d) Record a notation on the statement of the batch and lot
229 number for each vaccine administered to the child.

230
231 This subsection applies to each vaccine information statement
232 published by the Centers for Disease Control and Prevention,
233 whether or not the statement is covered by the federal National
234 Childhood Vaccine Injury Act of 1986, 42 U.S.C. s. 300aa-26. If
235 the Centers for Disease Control and Prevention publish a vaccine
236 information statement that covers multiple vaccines, the health
237 care provider may have the child's parent, legal guardian, or
238 other authorized person sign a single statement for the vaccines
239 covered by the vaccine information statement.

240 (8) ~~(6)~~ (a) No person licensed by this state as a physician
241 or nurse shall be liable for any injury caused by his or her
242 action or failure to act in the administration of a vaccine or
243 other immunizing agent pursuant to the provisions of this



209710

244 section if the person acts as a reasonably prudent person with
245 similar professional training would have acted under the same or
246 similar circumstances.

247 (b) No member of a district school board, or any of its
248 employees, or member of a governing board of a private school,
249 or any of its employees, shall be liable for any injury caused
250 by the administration of a vaccine to any student who is
251 required to be so immunized or for a failure to diagnose
252 scoliosis pursuant to the provisions of this section.

253 (9)~~(7)~~ The parents of any child admitted to or in
254 attendance at a Florida public or private school, grades
255 prekindergarten through 12, are responsible for assuring that
256 the child is in compliance with the provisions of this section.

257 (10)~~(8)~~ Each public school, including public kindergarten,
258 and each private school, including private kindergarten, shall
259 be required to provide to the county health department director
260 or administrator annual reports of compliance with the
261 provisions of this section. Reports shall be completed on forms
262 provided by the Department of Health for each kindergarten, and
263 other grade as specified; and the reports shall include the
264 status of children who were admitted at the beginning of the
265 school year. After consultation with the Department of
266 Education, the Department of Health shall establish by
267 administrative rule the dates for submission of these reports,
268 the grades for which the reports shall be required, and the
269 forms to be used.

270 (11)~~(9)~~ The presence of any of the communicable diseases
271 for which immunization is required by the Department of Health
272 in a Florida public or private school shall permit the county



209710

273 health department director or administrator or the State Health
274 Officer to declare a communicable disease emergency. The
275 declaration of such emergency shall mandate that all students in
276 attendance in the school who are not in compliance with the
277 provisions of this section be identified by the district school
278 board or by the governing authority of the private school; and
279 the school health and immunization records of such children
280 shall be made available to the county health department director
281 or administrator. Those children identified as not being
282 immunized against the disease for which the emergency has been
283 declared shall be temporarily excluded from school by the
284 district school board, or the governing authority of the private
285 school, until such time as is specified by the county health
286 department director or administrator.

287 (12)~~(10)~~ Each district school board and the governing
288 authority of each private school shall:

289 (a) Refuse admittance to any child otherwise entitled to
290 admittance to kindergarten, or any other initial entrance into a
291 Florida public or private school, who is not in compliance with
292 the provisions of subsection (4).

293 (b) Temporarily exclude from attendance any student who is
294 not in compliance with the provisions of subsection (4).

295 (13)~~(11)~~ The provisions of this section do not apply to
296 those persons admitted to or attending adult education classes
297 unless the adult students are under 21 years of age.

298 Section 6. This act shall take effect July 1, 2009.

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300

301 ===== T I T L E A M E N D M E N T =====



209710

302 And the title is amended as follows:

303 Delete everything before the enacting clause
304 and insert:

305 A bill to be entitled

306 An act relating to vaccinations; amending s. 381.003,
307 F.S.; conforming a cross-reference; amending s.
308 499.005, F.S.; prohibiting the sale, purchase,
309 manufacture, delivery, importation, administration,
310 and distribution of vaccines containing organic or
311 inorganic mercury compounds in excess of a certain
312 amount; amending ss. 1002.20 and 1002.42, F.S.;
313 conforming cross-references; amending s. 1003.22,
314 F.S.; authorizing a parent, legal guardian, or
315 authorized person to choose an alternative
316 immunization schedule under certain conditions;
317 requiring health care providers to provide certain
318 information to parents, legal guardians, and
319 authorized persons before administration of certain
320 immunizations to children; requiring health care
321 providers to obtain a signed statement from the
322 parents, legal guardians, and authorized persons
323 documenting provision of the information; requiring
324 health care providers to use a standard form for the
325 signed statement; requiring health care providers to
326 record the batch and lot number of each vaccine on the
327 statement; requiring health care providers to maintain
328 certain records; providing for a single, signed
329 statement for the administration of multiple vaccines;
330 providing an effective date.