

By: Harless

H.B. No. 3127

A BILL TO BE ENTITLED

AN ACT

relating to the immunization requirements for admission to schools and during certain declared disasters; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 38.001(c), Education Code, is amended to read as follows:

(c) Immunization is not required for a person's admission to any public or private elementary or secondary school if the person applying for admission:

(1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician's opinion, the immunization required poses a significant risk to the health and well-being of the applicant or any member of the applicant's family or household; or

(B) an affidavit signed by the applicant or, if minor, by the applicant's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief; or

(2) is a member of the armed forces of the United States and is on active duty.

SECTION 2. Section 81.009, Health and Safety Code, is amended to read as follows:

1 Sec. 81.009. EXEMPTION FROM MEDICAL TREATMENT OR
2 IMMUNIZATION. (a) Except as provided by Subsection (c), this
3 [This] chapter does not authorize or require the medical treatment
4 or immunization of an individual if:

5 (1) the individual or, in the case of a child, the
6 parent, managing conservator, or guardian of the child:

7 (A) objects to the medical treatment or
8 immunization for reasons of conscience; or

9 (B) [who] chooses treatment by prayer or
10 spiritual means; or

11 (2) the medical treatment or immunization is medically
12 contraindicated based on the opinion of a physician licensed in
13 this state or any other state who has examined the individual [as
14 part of the tenets and practices of a recognized church of which the
15 individual is an adherent or member].

16 (b) An individual who objects to medical treatment or
17 immunization [However, the individual] may be isolated or humanely
18 quarantined in an appropriate facility or at home and shall obey the
19 rules, orders, and instructions of the department or health
20 authority while in isolation or quarantine.

21 (c) [(b)] An exemption from medical treatment or
22 immunization under this section does not apply during a public
23 health disaster [an emergency or an area quarantine or after the
24 issuance by the governor of an executive order or a proclamation
25 under Chapter 418, Government Code (Texas Disaster Act of 1975)].

26 SECTION 3. Section 81.087, Health and Safety Code, is
27 amended by amending Subsection (a) and adding Subsections (a-1) and

(a-2) to read as follows:

(a) Except as provided by Subsection (a-1), a [A] person commits an offense if the person knowingly refuses to perform or allow the performance of certain control measures ordered by a health authority or the department under Sections 81.083-81.086.

(a-1) It is an exception to the application of Subsection (a) that the individual refuses to perform or allow the performance of a control measure based on medical or religious reasons or reasons of conscience described by Section 81.009(a).

(a-2) A person who refuses to perform or allow the performance of a control measure based on medical or religious reasons or reasons of conscience described by Section 81.009(a) commits an offense if the person refuses or fails to follow an order by a health authority or the department for isolation or quarantine.

SECTION 4. Sections 161.0041(c), (d), and (e), Health and Safety Code, are amended to read as follows:

(c) The department shall prominently post the affidavit form on the department's Internet website. The department shall make the affidavit form available for printing from the department's Internet website. A person claiming an exemption from a required immunization under this section may also ~~[only]~~ obtain the affidavit form by submitting a written request for the affidavit form to the department.

(d) ~~[The department shall develop a blank affidavit form that contains a seal or other security device to prevent reproduction of the form.]~~ The affidavit form shall contain a

1 statement indicating that the person or, if a minor, the person's
2 parent, managing conservator, or guardian understands the benefits
3 and risks of immunizations and the benefits and risks of not being
4 immunized as well as instructions on how to report to the department
5 incidences of discrimination based on an individual's claiming an
6 exemption from immunization.

7 (e) ~~[The department shall maintain a record of the total~~
8 ~~number of affidavit forms sent out each year and shall report that~~
9 ~~information to the legislature each year.]~~ The department may not
10 maintain a record of the names of individuals who request an
11 affidavit under this section or cause the notarized exemption form
12 to expire by rule.

13 SECTION 5. The change in law made by this Act to Section
14 81.087, Health and Safety Code, applies only to an offense
15 committed on or after the effective date of this Act. An offense
16 committed before the effective date of this Act is covered by the
17 law in effect when the offense was committed, and the former law is
18 continued in effect for that purpose. For purposes of this section,
19 an offense was committed before the effective date of this Act if
20 any element of the offense was committed before that date.

21 SECTION 6. This Act takes effect September 1, 2007.