

By: Howard of Fort Bend

H.B. No. 3328

A BILL TO BE ENTITLED

AN ACT

relating to immunization requirements for children.

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

SECTION 1. Section 81.023, Health and Safety Code, is amended to read as follows:

Sec. 81.023. IMMUNIZATION. (a) The executive commissioner of the Health and Human Services Commission may recommend to the legislature immunizations that may be added to the list of required immunizations [~~board shall develop immunization requirements~~] for children under Section 161.004, Sections 38.001 and 51.933, Education Code, and Section 42.043, Human Resources Code.

(b) Control measures imposed by the department or a local health authority under Section 81.082 during a public health disaster may require immunizations other than those listed in Section 161.004 only if the public health disaster occurs when the legislature is not in session. If the legislature is called to session during the disaster, the control measures requiring immunizations have no effect unless the legislature approves the control measures by joint resolution.

(c) The executive commissioner of the Health and Human Services Commission [~~board~~] shall cooperate with the Department of Family and Protective [~~and Regulatory~~] Services in promoting [~~formulating and implementing~~] the immunization requirements for children admitted to child-care facilities.

1 (d) [(c)] The executive commissioner of the Health and
2 Human Services Commission [~~board~~] shall cooperate with the State
3 Board of Education in promoting the [~~formulating and implementing~~]
4 immunization requirements for students admitted to public or
5 private primary or secondary schools.

6 SECTION 2. Section 161.004(a), Health and Safety Code, is
7 amended to read as follows:

8 (a) Except as provided by Subsection (d), each [~~Every~~] child
9 in the state shall be immunized against hepatitis B, diphtheria,
10 tetanus, pertussis, influenza, haemophilus influenzae type b,
11 pneumococcal disease, poliomyelitis, rubeola, mumps, rubella,
12 varicella, hepatitis A, and meningococcal disease [~~vaccine~~
13 ~~preventable diseases caused by infectious agents~~] in accordance
14 with the [~~immunization~~] schedule adopted by the executive
15 commissioner of the Health and Human Services Commission. The
16 executive commissioner of the Health and Human Services Commission
17 may not require immunizations against any additional diseases
18 [~~board~~].

19 SECTION 3. Section 38.001, Education Code, as amended by
20 Chapters 43 (H.B. 1098) and 94 (H.B. 1059), Acts of the 80th
21 Legislature, Regular Session, 2007, is reenacted and amended to
22 read as follows:

23 Sec. 38.001. IMMUNIZATION; REQUIREMENTS; EXCEPTIONS. (a)
24 Except as provided by Subsection (c), each [~~Each~~] student shall be
25 fully immunized against diphtheria, rubeola, rubella, mumps,
26 tetanus, pertussis, varicella, hepatitis B, and poliomyelitis and,
27 for students attending a school in a high-incidence geographic area

1 as determined by the executive commissioner of the Health and Human
2 Services Commission, hepatitis A [~~, except as provided by~~
3 ~~Subsection (c)~~].

4 (b) The [~~Subject to Subsections (b-1) and (c), the~~]
5 executive commissioner of the Health and Human Services Commission
6 may not modify or delete any of the immunizations in Subsection (a)
7 and [~~or~~] may not require immunizations against additional diseases
8 as a requirement for admission to any elementary or secondary
9 school.

10 (b-1) Each year, the Department of State Health Services
11 shall prepare a list of the immunizations required under this
12 section for admission to public schools and of any additional
13 immunizations the department recommends for school-age children.
14 The department shall prepare the list in English and Spanish and
15 make the list available in a manner that permits a school district
16 to easily post the list on the district's Internet website as
17 required by Section 38.019.

18 (b-2) [~~(b-1)~~] Immunization against human papillomavirus is
19 not required for a person's admission to any elementary or
20 secondary school; however, by using existing resources, the Health
21 and Human Services Commission shall provide educational material
22 about the human papillomavirus vaccine that is unbiased, medically
23 and scientifically accurate, and peer reviewed, available to
24 parents or legal guardians at the appropriate time in the
25 immunization schedule by the appropriate school. This subsection
26 preempts any contrary executive order issued by the governor. This
27 subsection expires January 11, 2013 [~~2011~~].

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

4 (1) submits to the admitting official:

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

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

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

17 (c-1) An affidavit submitted under Section (c)(1)(B) must
18 be on a form described by Section 161.0041, Health and Safety Code,
19 and must be submitted to the admitting official not later than the
20 90th day after the date the affidavit is notarized.

21 (d) The Department of State Health Services shall provide
22 the required immunization to children in areas where no local
23 provision exists to provide those services.

24 (e) A person may be provisionally admitted to an elementary
25 or secondary school if the person has begun the required
26 immunizations and if the person continues to receive the necessary
27 immunizations as rapidly as is medically feasible. The Department

1 of State Health Services shall adopt rules relating to the
2 provisional admission of persons to an elementary or secondary
3 school.

4 (f) A person who has not received the immunizations required
5 by this section for reasons of conscience, including because of the
6 person's religious beliefs, may be excluded from school in times of
7 a public health disaster as defined by Section 81.003, Health and
8 Safety Code [~~emergency or epidemic declared by the commissioner of~~
9 ~~public health~~].

10 SECTION 4. Sections 51.933(b) and (e), Education Code, are
11 amended to read as follows:

12 (b) The executive commissioner of the Health and Human
13 Services Commission [~~Texas Board of Health~~] may not require
14 immunizations against [~~the diseases listed in Subsection (a) and~~
15 additional diseases for students at any institution of higher
16 education [~~who are pursuing a course of study in a human or animal~~
17 ~~health profession, and the board may require those immunizations~~
18 ~~for any students in times of an emergency or epidemic in a county~~
19 ~~where the commissioner of public health has declared such an~~
20 ~~emergency or epidemic~~].

21 (e) A person who has not received the immunizations required
22 by this section for reasons of conscience, including because of the
23 person's religious beliefs, may be excluded from school in times of
24 a public health disaster as defined by Section 81.003, Health and
25 Safety Code. [~~The exception provided by Subsection (d)(1)(B) does~~
26 ~~not apply in a time of emergency or epidemic declared by the~~
27 ~~commissioner of public health.~~]

1 SECTION 5. Sections 42.043(a), (b), and (c), Human
2 Resources Code, are amended to read as follows:

3 (a) The executive commissioner of the Health and Human
4 Services Commission [~~department~~] shall make rules for the
5 immunization of children in facilities regulated under this
6 chapter.

7 (b) Each [~~The department shall require that each~~] child at
8 an appropriate age shall [~~have a test for tuberculosis and~~] be
9 immunized against diphtheria, tetanus, pertussis, poliomyelitis,
10 mumps, rubella, rubeola, haemophilus influenzae type b, hepatitis
11 B, varicella, [~~invasive~~] pneumococcal disease, and hepatitis A [~~and~~
12 ~~against any other communicable disease~~] as recommended by the
13 Department of State Health Services. The immunization must be
14 effective on the date of first entry into the facility. However, a
15 child may be provisionally admitted if the required immunizations
16 have begun and are completed as rapidly as medically feasible.

17 (c) The executive commissioner of the Health and Human
18 Services Commission [~~Texas Department of Health~~] shall make rules
19 for the provisional admission of children to facilities regulated
20 under this chapter. The executive commissioner of the Health and
21 Human Services Commission [~~and~~] may not modify or delete any of the
22 immunizations listed in Subsection (b) [~~of this section~~] or require
23 additional immunizations as a requirement for admission to a
24 facility.

25 SECTION 6. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2009.