

HOUSE BILL NO. 158

INTRODUCED BY M. MACDONALD

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SCHOOL IMMUNIZATION LAWS; PROVIDING FOR DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES RULEMAKING AUTHORITY RELATED TO IMMUNIZATION REQUIREMENTS FOR SCHOOL PUPILS; AMENDING SECTIONS 20-5-403, 20-5-405, 20-5-406, 20-5-407, AND 20-5-409, MCA; AND REPEALING SECTION 20-5-404, MCA."

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

**Section 1.** Section 20-5-403, MCA, is amended to read:

**"20-5-403. Immunization required -- release and acceptance of immunization records.** (1) The governing authority of any school other than a postsecondary school may not allow a person to attend as a pupil unless the person:

(a) has been immunized against ~~diphtheria, pertussis, tetanus, poliomyelitis, rubella, mumps, and measles (rubeola) in the manner and with immunizing agents approved by the department, except that pertussis vaccination is not required for a person 7 years of age or older~~ disease as provided by department rule;

~~(b) has been immunized against Haemophilus influenza type "b" before enrolling in a preschool if under 5 years of age;~~

~~(c)~~(b) qualifies for conditional attendance as provided by department rule; or

~~(d)~~(c) files for an exemption.

(2) ~~(a)~~ The governing authority of a postsecondary school may not allow a person to attend as a pupil unless the person:

~~(i)~~(a) has been immunized against ~~rubella and measles (rubeola) in the manner and with immunizing agents approved by the department~~ disease as provided by department rule; or

~~(ii)~~(b) files for an exemption.

~~(b) The governing authority of a postsecondary school may impose immunization requirements as a condition of attendance that are more stringent than those required by this part.~~

(3) A pupil who transfers from one school district to another may photocopy immunization records in the possession of the school of origin. The school district to which a pupil transfers shall accept the photocopy as



1 evidence of immunization. Within 30 days after a transferring pupil ceases attendance at the school of origin, the  
2 school shall retain a certified copy for the permanent record and send the original immunization records for the  
3 pupil to the school district to which the pupil transfers."  
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5 **Section 2.** Section 20-5-405, MCA, is amended to read:

6 **"20-5-405. Medical or religious exemption.** (1) When a parent, guardian, or adult who has the  
7 responsibility for the care and custody of a minor seeking to attend school or the person seeking to attend school,  
8 if an adult, signs and files with the governing authority, prior to the commencement of attendance each school  
9 year, a notarized affidavit on a form prescribed by the department stating that immunization is contrary to the  
10 religious tenets and practices of the signer, immunization of the person seeking to attend the school may not be  
11 required prior to attendance at the school. The statement must be maintained as part of the person's  
12 immunization records. A person who falsely claims a religious exemption is subject to the penalty for false  
13 swearing provided in 45-7-202.

14 (2) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor  
15 seeking to attend school or the person seeking to attend school, if an adult, files with the governing authority a  
16 written statement signed by a physician licensed to practice medicine in any jurisdiction of the United States or  
17 Canada stating that the physical condition of the person seeking to attend school or medical circumstances  
18 relating to the person indicate that some or all of the required immunizations are not considered safe and  
19 indicating the specific nature and probable duration of the medical condition or circumstances that contraindicate  
20 immunization, the person is exempt from the requirements of this part to the extent indicated by the physician's  
21 statement. The statement must be maintained as part of the person's immunization records.

22 (3) Whenever there is good cause to believe that a person for whom an exemption has been filed under  
23 this section has a disease or has been exposed to a disease listed in for which immunization is required under  
24 20-5-403 or will as the result of school attendance be exposed to the disease, the person may be excluded from  
25 the school by the local health officer or the department until the excluding authority is satisfied that the person  
26 no longer risks contracting or transmitting that disease."  
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28 **Section 3.** Section 20-5-406, MCA, is amended to read:

29 **"20-5-406. Immunization record.** The governing authority of each school shall require written evidence  
30 of each pupil's immunization against the diseases listed in for which immunization is required under 20-5-403 and

1 shall record the immunization of each pupil as part of the pupil's permanent school record on a form prescribed  
2 by the department."

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4 **Section 4.** Section 20-5-407, MCA, is amended to read:

5 **"20-5-407. Rulemaking.** The department ~~may~~ shall adopt rules necessary to implement the provisions  
6 of this part, including but not limited to the following:

7 (1) rules identifying diseases for which immunization is required;

8 (2) rules specifying the manner in which immunizations are administered; and

9 (3) rules providing for conditional attendance."

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11 **Section 5.** Section 20-5-409, MCA, is amended to read:

12 **"20-5-409. Failure to immunize or claim exemption -- injunction.** (1) A parent, guardian, or adult  
13 having the responsibility for the care and custody of a minor required by law to attend school shall elect to do one  
14 of the following:

15 (a) present evidence to the school that the minor has been immunized ~~against the diseases specified~~  
16 ~~in 20-5-403~~ in accordance with department rule;

17 (b) take action to fully immunize the minor ~~against the diseases listed in 20-5-403, in the manner and~~  
18 ~~with immunizing agents approved by the department~~ in accordance with department rule; or

19 (c) file for an exemption pursuant to 20-5-405.

20 (2) If, as a result of the parent, guardian, or responsible adult's failure to make the election referred to  
21 in subsection (1), the minor is excluded from school, the department or the local health department may seek an  
22 injunction requiring the parent, guardian, or responsible adult to elect and perform one of the alternatives listed  
23 in subsection (1).

24 (3) Injunction is the exclusive remedy for failure to take any of the actions referred to in subsection (1)."

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26 **NEW SECTION. Section 6. Repealer.** The following section of the Montana Code Annotated is  
27 repealed:

28 20-5-404. Conditional attendance.

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