

SENATE BILL NO. 450

INTRODUCED BY D. EMRICH, T. MCGILLVRAY, C. GLIMM, B. BROWN, T. MANZELLA, S. HINEBAUCH, J. TREBAS, B. USHER, J. FULLER, K. BOGNER, C. FRIEDEL, S. VANCE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ACCEPTANCE OF RELIGIOUS ~~OR CONSCIENCE~~ EXEMPTIONS TO CERTAIN MEDICATIONS; PROVIDING RELIEF FOR VIOLATIONS OF RELIGIOUS ~~OR CONSCIENCE~~ EXEMPTIONS; PROVIDING A DEFINITION; AMENDING SECTION 20-5-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. **Acceptance of religious ~~or conscience~~ exemptions to immunizations required ~~-- penalties -- damages -- immunity -- definition~~.** (1) ~~The following entities or persons shall accept without question or malice any religious or conscience~~ For the purposes of this chapter, discrimination on the basis of religion includes denials of requests for an exemption that is provided for from an otherwise required immunization, as the term is defined in 20-5-402, based on an individual's religion an injection, a drug, or a medication that is required for employment purposes or for school or child care attendance:

~~(a) — a state agency;~~

~~(b) — any political subdivision as defined in 2-9-101;~~

~~(c) — any person licensed or registered pursuant to Title 52, chapter 2, part 7, to provide day care;~~

~~(d) — a licensed health care provider; or~~

~~(e) — any other organization or entity licensed by the state.~~

~~(2) — An entity or person listed in subsection (1) that fails to comply with the requirements of this section may not receive funding from the state.~~

~~(3) — A person who is aggrieved by a violation of this section may:~~

~~(a) — file a complaint as provided in Title 49, chapter 2, part 5; and~~

~~(b) — seek compensatory damages and costs and attorney fees.~~

(2) A person that accepts an individual's religious exemption from an immunization is not liable for civil damages from any injury arising out of the individual's nonimmunized status.

(3) For the purposes of this section, "religion" means a sincerely held belief of a religious character, as contrasted with a purely secular view. The belief may be personal to the individual and does not need to be connected to or consistent with the beliefs or tenets of an established church, sect, or denomination.

NEW SECTION. Section 2. Acceptance of religious exemption from immunization. (1) For the purposes of this chapter, discrimination on the basis of religion includes denials of requests for an exemption from an otherwise required immunization, as the term is defined in 20-5-402, based on an individual's religion.

(2) For the purposes of this section, "religion" has the meaning provided in [section 1].

Section 3. Section 20-5-405, MCA, is amended to read:

"20-5-405. Exemptions -- limitations on agency actions. (1) (a) There is a religious ~~and conscience~~ exemption to the immunizations required under 20-5-403. A person enrolled or seeking to enroll in school may attend the school without obtaining the immunizations if the person ~~files with~~ notifies files with the governing authority ~~a notarized affidavit on a form prescribed by the department stating~~ through a signed statement or letter a notarized affidavit on a form prescribed by the department stating that immunization is contrary to the ~~religious tenets and practices and/or conscience of the signer person's religion.~~

~~(b) The statement must be signed:~~

~~(i) by the person enrolled or seeking to enroll in the school, if the person is an adult; or~~

~~(ii) if the person is a minor, by a parent, guardian, or adult who has the responsibility for the care and custody of the minor.~~

(b) The statement must be signed:

(i) by the person enrolled or seeking to enroll in the school, if the person is an adult; or

(ii) if the person is a minor, by a parent, guardian, or adult who has the responsibility for the care and custody of the minor.

~~(c)(b)(c)~~ The statement ~~or letter~~ must be maintained as part of the person's immunization records.

~~(d) A person who falsely claims a religious exemption is subject to the penalty for false swearing as~~

1 ~~provided in 45-7-202.~~

2 (2) (a) There is a medical exemption to the immunizations required under 20-5-403. A person
3 enrolled or seeking to enroll in school may attend the school without obtaining the immunizations if a written
4 medical exemption statement signed by a health care provider specified in subsection (2)(c) is filed with the
5 governing authority. The medical exemption statement must:

6 (i) attest that the physical condition of the person enrolled or seeking to enroll in school or the
7 medical circumstances relating to the person indicate that some or all of the required immunizations are not
8 considered safe; and

9 (ii) indicate the specific nature and probable duration of the medical condition or circumstances
10 that contraindicate immunization.

11 (b) The person is exempt from the requirements of this part to the extent indicated by the medical
12 exemption statement.

13 (c) The medical exemption statement must be signed by a person who:

14 (i) is licensed, certified, or otherwise authorized by the laws of any state or Canada to provide
15 health care as defined in 50-16-504;

16 (ii) is authorized within the person's scope of practice to administer the immunizations to which the
17 exemption applies; and

18 (iii) has previously provided health care to the person seeking the exemption or has administered
19 an immunization to which the person seeking an exemption has had an adverse reaction.

20 (d) The medical exemption statement must be maintained as part of the person's immunization
21 records and may not be photocopied or otherwise duplicated for use by a third party without permission of the
22 student's parent or, if the student is an adult, the written consent of the student.

23 (3) (a) The department may not require a medical exemption form that imposes requirements that
24 are more burdensome or otherwise in excess of the requirements described in this section. A form prescribed
25 by the department that contains requirements not expressly described in this section is void to the extent that it
26 purports to impose requirements not included in this section.

27 (b) A governing authority may not deny a medical exemption on the basis that a person has not
28 completed portions of the medical exemption form that are void under this subsection (3).

(c) The department is not authorized to review a completed medical exemption statement or medical exemption form for the purpose of granting or denying a medical exemption.

(4) Whenever there is good cause to believe that a person for whom an exemption has been filed under this section has a disease or has been exposed to a disease listed in 20-5-403 or will as the result of school attendance be exposed to the disease, the person may be excluded from the school by the local health officer or the department until the excluding authority is satisfied that the person no longer risks contracting or transmitting that disease.

(5) For the purposes of this section, "religion" has the meaning provided in [section 1].

NEW SECTION. Section 4. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 49, chapter 2, part 3, and the provisions of Title 49, chapter 2, part 3, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 49, chapter 3, part 1, and the provisions of Title 49, chapter 3, part 1, apply to [section 2].

NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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