

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; 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. (1) The following entities or persons shall accept without question or malice any religious or conscience exemption that is provided for an immunization, as the term is defined in 20-5-402, 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.

Section 2. Section 20-5-405, MCA, is amended to read:

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

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

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

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

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

11 ~~(d) A person who falsely claims a religious exemption is subject to the penalty for false swearing as~~
12 ~~provided in 45-7-202.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

19
20 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
21 integral part of Title 49, chapter 2, part 3, and the provisions of Title 49, chapter 2, part 3, apply to [section 1].

22
23 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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