

MAINE STATE LEGISLATURE

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Date: 4/19/19 Majority

EDUCATION AND CULTURAL AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 586, L.D. 798, Bill, "An Act To Protect Maine Children and Students from Preventable Diseases by Repealing Certain Exemptions from the Laws Governing Immunization Requirements"

Amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 20-A MRSA §6355, sub-§2, as amended by PL 2001, c. 326, §2, is further amended to read:

2. Medical exemption. The parent or the child provides a physician's written statement from a licensed physician, nurse practitioner or physician assistant that, in the licensed physician's, nurse practitioner's or physician assistant's professional judgment, immunization against one or more of the diseases may be medically inadvisable.'

Amend the bill by inserting after section 1 the following:

'Sec. 2. 20-A MRSA §6355, sub-§4 is enacted to read:

4. Student covered by individualized education plan. A student covered by an individualized education plan on September 1, 2021 who elected a philosophical or religious exemption from immunization requirements on or before September 1, 2021 pursuant to the law in effect prior to that date may continue to attend school under that student's existing exemption as long as:

A. The parent or guardian of the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that parent or guardian and has made that parent or guardian aware of the risks and benefits associated with the choice to immunize; or

B. If the student is 18 years of age or older, the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that student and has made that student aware of the risks and benefits associated with the choice to immunize.

COMMITTEE AMENDMENT

1 **Sec. 3. 20-A MRSA §6358**, as amended by PL 2001, c. 326, §3 and PL 2003, c.
2 689, Pt. B, §6, is further amended to read:

3 **§6358. Rules; requirements; reports**

4 **1. Rules authorized.** The commissioner and the Director of the ~~Bureau of Health,~~
5 Maine Center for Disease Control and Prevention within the Department of Health and
6 Human Services, shall jointly issue rules necessary for the effective implementation of
7 this subchapter, including, but not limited to, rules specifying those diseases for which
8 immunization is required and establishing school record keeping and reporting
9 requirements or guidelines and procedures for the exclusion of nonimmunized children
10 from school. The rules may not include any provision governing medical exemptions.
11 Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5,
12 chapter 375, subchapter 2-A except that rules adopted pursuant to this subchapter
13 specifying the diseases for which immunization is required are major substantive rules as
14 defined in Title 5, chapter 375, subchapter H-A 2-A.

15 **2. Local requirements authorized.** Immunization requirements more stringent than
16 the provisions of this subchapter may be adopted by ordinance enacted by a municipality,
17 by regulation of a school board or by policy of a private school's governing board.

18 **3. Report.** By January 1st of each odd-numbered year, the Director of the Maine
19 Center for Disease Control and Prevention within the Department of Health and Human
20 Services shall submit a report to the joint standing committees of the Legislature having
21 jurisdiction over health and human services matters and education matters concerning any
22 new developments in the evaluation of vaccine safety and effectiveness. The joint
23 standing committees of the Legislature having jurisdiction over health and human
24 services matters and education matters are each authorized to submit a bill during the
25 legislative session in which the report was submitted.

26 **Sec. 4. 20-A MRSA §6359, sub-§3, ¶A**, as amended by PL 1991, c. 146, §3, is
27 further amended to read:

28 A. The parent or the student provides ~~a physician's written statement or a written~~
29 ~~statement from a school health provider~~ from a licensed physician, nurse practitioner
30 or physician assistant that, in the physician's, nurse practitioner's or physician
31 assistant's professional judgment, immunization against one or more of the diseases
32 may be medically inadvisable.'

33 Amend the bill by inserting after section 2 the following:

34 **'Sec. 3. 20-A MRSA §6359, sub-§6**, as amended by PL 1991, c. 146, §4, is
35 further amended to read:

36 **6. Rules; requirements; reports.** The Director of the ~~Bureau of Health~~ Maine
37 Center for Disease Control and Prevention within the Department of Health and Human
38 Services shall adopt rules necessary for the effective implementation of this subchapter,
39 including, but not limited to, rules establishing immunization requirements ~~and medical~~
40 ~~exceptions to receiving vaccines or toxoids~~ for each disease, school record keeping and
41 reporting requirements or guidelines and procedures for the exclusion of nonimmunized
42 students from school. The rules may not include any provision governing medical
43 exemptions. Rules adopted pursuant to this subchapter are routine technical rules as

1 defined in Title 5, chapter 375, subchapter 2-A except that rules adopted pursuant to this
2 subchapter specifying the diseases for which immunization is required are major
3 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

4 Immunization requirements more stringent than the provisions of this subchapter may be
5 adopted by a school board or by policy of a private school's governing board.

6 **Sec. 4. 22 MRSA §802, sub-§4-B, ¶A,** as enacted by PL 2001, c. 185, §2, is
7 amended to read:

8 A. A medical exemption is available to an employee who provides a physician's
9 written statement from a licensed physician, nurse practitioner or physician assistant
10 that, in the physician's, nurse practitioner's or physician assistant's professional
11 judgment, immunization against one or more diseases may be medically inadvisable.'

12 Amend the bill in section 4 in paragraph A in the 6th line (page 1, line 15 in L.D.) by
13 inserting after the following: "belief" the following: ', nurse practitioner or physician
14 assistant'

15 Amend the bill by striking out all of section 5 and inserting the following:

16 '**Sec. 5. Rules.** The Department of Education and the Department of Health and
17 Human Services shall amend their rules to remove any rules exempting persons from
18 immunization requirements because of their religious or philosophical beliefs.

19 Rules adopted pursuant to this section are routine technical rules pursuant to the
20 Maine Revised Statutes, Title 20-A, section 6358, subsection 1 and section 6359,
21 subsection 6.

22 **Sec. 6. Effective date.** Those sections of this Act that amend the Maine Revised
23 Statutes, Title 22, section 802, subsection 4-B, paragraph A and Title 22, section 8402,
24 subsection 3, paragraph A and that repeal Title 20-A, section 6355, subsection 3 and Title
25 20-A, section 6359, subsection 3, paragraph B take effect September 1, 2021.'

26 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
27 section number to read consecutively.

28 **SUMMARY**

29 Current law allows exemptions from immunization requirements based on religious
30 or philosophical beliefs for students in elementary and secondary schools and
31 postsecondary schools and employees of nursery schools and health care facilities. This
32 amendment, which is the majority report, removes those exemptions effective September
33 1, 2021.

34 Current law relating to enrollment in any public or private elementary or secondary
35 school provides that the superintendent may not permit any child to be enrolled in or to
36 attend school without a certificate of immunization for each disease or other acceptable
37 evidence of required immunization or immunity against the disease except when the
38 parent or child provides a physician's written statement that immunization against one or
39 more of the diseases may be medically inadvisable. Instead, the amendment requires the
40 parent or child to provide a written statement from a licensed physician, nurse practitioner
41 or physician assistant that, in that physician's, nurse practitioner's or physician assistant's

1 professional judgment, immunization against one or more of the diseases may be
2 medically inadvisable.

3 Current law relating to immunization of students enrolled in any public or private
4 postsecondary school provides that a chief administrative officer may not permit a student
5 to be enrolled in or to attend a school without a certificate of immunization for each
6 disease or other acceptable evidence of required immunization or immunity against the
7 disease except when the parent or the student provides a physician's written statement or a
8 written statement from a school health provider that immunization against one or more of
9 the diseases may be medically inadvisable. Instead, the amendment requires that the
10 parent or the student provide a written statement from a licensed physician, nurse
11 practitioner or physician assistant that, in that physician's, nurse practitioner's or
12 physician assistant's professional judgment, immunization against one or more of the
13 diseases may be medically inadvisable.

14 The amendment keeps the directive in the unallocated section of the bill to the
15 Department of Education and the Department of Health and Human Services to remove
16 any immunization exemptions based on religious or philosophical beliefs from their rules.

17 The amendment places in statute the directive in the unallocated section of the bill
18 allowing a student who is covered by an individualized education plan and has elected a
19 philosophical or religious exemption from immunization requirements to continue to
20 attend school under the existing exemption as long as a licensed physician, nurse
21 practitioner or physician assistant provides a statement that the physician, nurse
22 practitioner or physician assistant has provided information on the risks and benefits
23 associated with the choice to immunize.

24 The amendment also requires the Director of the Maine Center for Disease Control
25 and Prevention within the Department of Health and Human Services to submit a report,
26 by January 1st of each odd-numbered year, to the joint standing committees of the
27 Legislature having jurisdiction over health and human services matters and education
28 matters concerning any new developments in the evaluation of vaccine safety and
29 effectiveness. The joint standing committees of the Legislature having jurisdiction over
30 health and human services matters and education matters are each authorized to submit a
31 bill during the legislative session in which the report was submitted.

32 **FISCAL NOTE REQUIRED**

33 (See attached)



129th MAINE LEGISLATURE

LD 798

LR 80(02)

An Act To Protect Maine Children and Students from Preventable Diseases by Repealing Certain Exemptions from the Laws Governing Immunization Requirements

**Fiscal Note for Bill as Amended by Committee Amendment *A(H-120)*
Committee: Education and Cultural Affairs**

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Department of Health and Human Services and the Department of Education to adopt the changes in this bill are expected to be minor and can be absorbed within existing budgeted resources.