

MAINE STATE LEGISLATURE

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1 (After Deadline)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 2329

7
8 H.P. 1651

House of Representatives, April 3, 1986

9 Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 27.

10 Referred to the Committee on Human Resources. Sent up for
concurrence and ordered printed.

11 EDWIN H. PERT, Clerk

Presented by Representative Nelson of Portland.
12

13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-SIX
17

18 AN ACT Relating to the Administration of
19 Preventable Disease Programs and the
20 Bureau of Health.
21

22 Be it enacted by the People of the State of Maine as
23 follows:

24 Sec. 1. 4 MRSA §1151, sub-§2, as amended by PL
25 1983, c. 171, §1, is further amended to read:

26 2. Licensing jurisdiction. Except as provided in
27 Title 5, section 10004; Title 29, chapter 17; Title
28 32, chapter 59; and Title 35, section 13-A, the Ad-
29 ministrative Court shall have exclusive jurisdiction
30 upon complaint of an agency or, if the licensing
31 agency fails or refuses to act within a reasonable
32 time, upon complaint of the Attorney General, to re-
33 voke or suspend licenses issued by the agency, and
34 shall have original jurisdiction upon complaint of a
35 licensing agency to determine whether renewal or re-
36 issuance of a license of that agency may be refused.

1 The Administrative Court shall have original juris-
2 isdiction, concurrent with that of the Superior Court,
3 to grant equitable relief in proceedings alleging any
4 licensing violations.

5 Notwithstanding any other provisions of law, no li-
6 censing agency shall have the authority to may rein-
7 state or otherwise affect a license suspended, re-
8 voked or modified by the Administrative Court pursu-
9 ant to a complaint filed by the Attorney General,
10 without the approval of the Attorney General.

11 Sec. 2. 20-A MRSA §6359 is enacted to read:

12 §6359. Immunization of students

13 1. Definitions. As used in this section, unless
14 the content indicates otherwise, the following terms
15 have the following meanings.

16 A. "Certificate of immunization" means a written
17 statement from a physician, nurse or health offi-
18 cial who has administered an immunizing agent to
19 a student, specifying the dosage administered and
20 the date it was administered.

21 B. "Chief administrative officer" means the per-
22 son designated by the legal governing authority
23 as president, administrator or director of a pub-
24 lic or private post-secondary school.

25 C. "Disease" means diphtheria, measles, rubella
26 and tetanus.

27 D. "Immunizing agent" means a vaccine, antitoxin
28 or other substances used to increase an
29 individual's immunity to a disease.

30 E. "Parent" means a student's parent, legal
31 guardian or custodian. A person shall be re-
32 garded as a student's custodian if that person is
33 an adult and has assumed legal charge and care of
34 the student.

35 F. "Public health official" means a local health
36 officer, the Director of the Bureau of Health or
37 any designated employee or agent of the Depart-
38 ment of Human Services.

1 G. "School" means any public or private,
2 post-secondary school in the State including, but
3 not limited to colleges, universities and voc-
4 ational-technical institutes.

5 H. "Student" means any person entering school
6 who was born after 1956.

7 2. Immunization. Except as otherwise provided
8 under this section, every student shall have adminis-
9 tered an adequate dosage of an immunizing agent
10 against each disease.

11 Any such immunizing agent shall meet standards for
12 the biological products, approved by the United
13 States Public Health Service and the dosage require-
14 ment specified by the Department of Human Services.

15 3. Enrollment of school. No chief administra-
16 tive officer may permit any student to be enrolled in
17 or to attend school without a certificate of
18 immunization for each disease or other acceptable ev-
19 idence of required immunization or immunity against
20 the disease, except as follows.

21 A. The parent or the student provides a
22 physician's written statement that immunization
23 against one or more of the diseases may be medi-
24 cally inadvisable.

25 B. The student or the parent, if the student is
26 a minor, states in writing a sincere religious
27 belief, which is contrary to the immunization re-
28 quirement of this subchapter or an opposition to
29 the immunization for moral, philosophical or oth-
30 er personal reasons.

31 4. Exclusion from school. When a public health
32 official has reason to believe that the continued
33 presence in a school of a student who has not been
34 immunized against one or more diseases presents a
35 clear danger to the health of others, the public
36 health official shall notify the chief administrative
37 officer of the school. The chief administrative of-
38 ficer shall cause the student to be excluded from
39 school during the period of danger or until the stu-
40 dent receives the necessary immunizing agent.

1 5. Records; report. Each chief administrative
2 officer shall keep uniform records of the
3 immunizations and immunization status of each stu-
4 dent, based on the certificate of immunization, other
5 acceptable evidence and other available documents.
6 The records shall be part of the student's permanent
7 records.

8 By December 15th of each year, each chief administra-
9 tive officer shall submit to the Director of the Bu-
10 reau of Health a summary report of immunization sta-
11 tus of the students entering school, as prescribed by
12 rule. A blank summary report form will be provided
13 to each chief administrative officer by the Bureau of
14 Health.

15 6. Rules; requirements; reports. The Director of
16 the Bureau of Health shall issue rules necessary for
17 the effective implementation of this subchapter, in-
18 cluding, but not limited to, rules establishing
19 immunization requirements for each disease, school
20 record keeping and reporting requirements or guide-
21 lines and procedures for the exclusion of
22 nonimmunized students from school.

23 Immunization requirements more stringent than the
24 provisions of this subchapter may be adopted by a
25 school board or by policy of a private school's gov-
26 erning board.

27 Sec. 3. 22 MRSA §1012, sub-§4 is enacted to
28 read:

29 4. Immunization required. Except as otherwise
30 provided under this subchapter, each hospital in the
31 State shall require, for all employees born after
32 1956, either proof of immunization or serologic evi-
33 dence of immunity against measles (Rubeola) and Ger-
34 man measles (Rubella). Employees currently working in
35 the hospital must meet these standards within 180
36 days of the effective date of this action. The per-
37 sonnel records of each employee born after 1956 shall
38 include a copy of the documentation of the vaccine
39 history, showing month, day and year or the serologic
40 history of immunity.

41 This section also applies to students enrolled in
42 medical or nursing schools within the State.

1 Sec. 4. 22 MRSA §1032, as amended by PL 1983, c.
2 661, §9, is further amended to read:

3 §1032. Confidentiality

4 The names and related information which may iden-
5 tify individuals having or suspected of having a
6 notifiable communicable disease shall be confidential
7 and may be released only to other public health offi-
8 cials, agents or agencies, or to school officials
9 where a child is enrolled, for a public health pur-
10 pose. In a public health emergency, as declared by
11 the state health officer, the information may also be
12 released to private health care providers and agen-
13 cies for the purpose of preventing further disease
14 transmission. All other information submitted pursu-
15 ant to this article may be made available to the pub-
16 lic.

17 Sec. 5. 22 MRSA §2497, as amended by PL 1979, c.
18 672, Pt. A, §61, is further amended to read:

19 §2497. Right of entry and inspection

20 The department and any duly designated officer or
21 employee thereof shall have the right, without an ad-
22 ministrative inspection warrant, to enter upon and
23 into the premises of any establishment licensed pur-
24 suant to this chapter at any reasonable time in order
25 to determine the state of compliance with this chap-
26 ter and any rules and regulations in force pursuant
27 thereto. Such right of entry and inspection shall ex-
28 tend to any premises which the department has reason
29 to believe is being operated or maintained without a
30 license, but no such entry or inspection of any
31 premises shall be made without the permission of the
32 owner or person in charge thereof, unless a complaint
33 is first obtained from the District Court. The de-
34 partment and any duly designated officer or employee
35 thereof does not have the right to enter, for inspec-
36 tion under this chapter, upon and into the premises
37 of any establishment that is licensed under chapter
38 551, subchapter I.

39 Sec. 6. P&SL 1975, c. 90, §H is repealed and the
40 following enacted in its place:

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STATEMENT OF FACT

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The overall purpose of this bill is to improve the public health of the State's citizens through amending various public health related laws.

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5 Section 1 of this bill provides the Administra-
6 tive Court with jurisdiction to grant equitable relief
7 in licensing proceedings. Since it is the Ad-
8 ministrative Court which will have heard the case in-
9 volving the action to revoke, suspend or refuse to
10 renew, it is most appropriate that this court have
11 the equity jurisdiction.

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Section 2 extends the current immunization requirements regarding school students to all public or private post-secondary schools in the State. This will reduce the risk of a measles outbreak occurring on college, university or vocational school campuses. Recent outbreaks in other states have resulted in unnecessary expenditures of health care resources, numerous hospitalizations and even death. This provision will also reduce the risks of the development of congenital defects in children born to women who are exposed to rubella during pregnancy.

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Section 3 requires all hospital employees born after 1956 to provide evidence that they have been immunized or provide serologic evidence of immunity against measles and German measles. This will minimize the risk of transmission of measles and rubella infections between health care providers and patients.

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Section 4 enables the Bureau of Health to provide information to private agencies, such as Red Cross, hospitals or nursing homes, in the event that the public's health is threatened. Currently, the Bureau of Health may only release confidential information to other public health agencies, e.g. at the federal level, such as the Center for Disease Control and at the local level, such as the Portland Health Department.

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Section 5 authorizes restaurant inspectors to enter an establishment without an administrative in-

1 specation warrant during operating hours and gives the
2 Administrative Court enjoining court and contempt
3 powers. This will prevent unnecessary delays from
4 occurring when the public's health is threatened.
5 Several months ago an inspector was denied entry into
6 a restaurant's kitchen during hours of operation.
7 The present language requires inspectors to get an
8 administrative inspection warrant to inspect. The
9 same restaurant refused to close after being ordered
10 to by the Administrative Court. The present language
11 made it necessary for the department to go to a 2nd
12 court to seek to enjoin.

13 Section 6 amends the laws pertaining to adminis-
14 tration of funds for families with children with
15 cystic fibrosis. These laws reflect major changes in
16 inflation and personal income since the original law
17 was passed and should enable the Department of Human
18 Services to utilize these funds more effectively to
19 help children with cystic fibrosis.

20 Section 7 establishes the effective date of the
21 post-secondary school immunization requirement as
22 September 1, 1987.

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