

## HB0221S09 compared with HB0221S06

~~text~~ shows text that was in HB0221S06 but was deleted in HB0221S09.

text shows text that was not in HB0221S06 but was inserted into HB0221S09.

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**Representative Carol Spackman Moss** proposes the following substitute bill:

### IMMUNIZATION OF STUDENTS AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carol Spackman Moss**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill amends provisions related to immunization requirements for students.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends requirements for an exemption from required immunizations;
- ▶ requires the Department of Health to:
  - develop an immunization exemption form;
  - develop an education module; and
  - make rules;
- ▶ requires a local health department to issue an immunization exemption form under certain conditions;

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- ▶ requires certain individuals to present a certificate of completion for an education module as a condition for receiving an exemption from required immunizations for a student;
- ▶ enacts renewal requirements for an exemption from immunization;
- ▶ amends requirements for transferring a student's exemption from required immunizations to a new school;
- ▶ requires a school to maintain a list of students who have not received required immunizations;
- ▶ amends provisions related to a conditional enrollment; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

#### AMENDS:

**26-1-17.5**, as last amended by Laws of Utah 2008, Chapter 382

**53A-11-303**, as enacted by Laws of Utah 1988, Chapter 2

**53A-11-304**, as enacted by Laws of Utah 1988, Chapter 2

#### ENACTS:

**53A-11-300.5**, Utah Code Annotated 1953

#### REPEALS AND REENACTS:

**53A-11-301**, as last amended by Laws of Utah 1992, Chapter 53

**53A-11-302**, as last amended by Laws of Utah 2010, Chapter 395

**53A-11-302.5**, as enacted by Laws of Utah 1992, Chapter 129

**53A-11-306**, as enacted by Laws of Utah 1988, Chapter 2

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **26-1-17.5** is amended to read:

**26-1-17.5. Confidential records.**

(1) A record classified as confidential under this title shall remain confidential, and be

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released according to the provisions of this title, notwithstanding Section 63G-2-310.

(2) In addition to those persons granted access to ~~[records]~~ a private record described in Subsection 63G-2-302(1)(b), immunization records may be shared among schools, school districts, and local and state health departments and the state Department of Human Services as necessary to ~~[assure]~~ ensure compliance with ~~[Section 53A-11-301]~~ Title 53A, Chapter 11, Part 3, Immunization of Students, and to prevent, investigate, and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health.

Section 2. Section **53A-11-300.5** is enacted to read:

### **53A-11-300.5. Definitions.**

As used in this part:

(1) "Certificate of immunization" means:

(a) a certification stating that a student received each required immunization, including the date each immunization was administered, issued by:

(i) a licensed health care provider;

(ii) an authorized representative of a local health department; or

(iii) an authorized representative of the department; or

(b) verification from the department, through a central database, that a student has received each required immunization, including the date each immunization was administered.

(2) "Department" means the Department of Health, created in Section 26-1-4.

(3) "Immunization exemption form" means a form, described in Section 53A-11-302.5, that exempts a student from one or more required immunizations.

(4) "Local education agency" or "LEA" means:

(a) a school district;

(b) a charter school; or

(c) the Utah Schools for the Deaf and the Blind.

(5) "Required immunizations" means immunizations against communicable diseases required by department rule described in Section 53A-11-303.

(6) "School" means:

(a) center-based child care, as defined in Section 26-39-102;

(b) a public school, as defined in Section 26-39-102;

(c) residential child care, as defined in Section 26-39-102; or

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(d) a private school that:

(i) is not primarily funded at public expense; and

(ii) provides education to students in any grade from kindergarten through grade 12.

(7) "Student" means an individual who attends a school.

Section 3. Section **53A-11-301** is repealed and reenacted to read:

**53A-11-301. Certificate of immunization required -- Exceptions-- Weighted pupil unit funding.**

(1) (a) Except as provided in Subsection (1)(b), a student may not attend a school unless there is presented to the appropriate official of the school a certificate of immunization for the student.

(b) A student who does not have a certificate of immunization may attend a school if the student:

(i) is exempt as described in Section 53A-11-302;

(ii) qualifies for conditional enrollment under Section 53A-11-306; or

(iii) meets:

(A) the definition of a student under Section 53A-1-1001; and

(B) the immunization requirements for military children under Section 53A-1-1001.

(2) An LEA may not receive weighted pupil unit money for a student unless the student:

(a) has a certificate of immunization; or

(b) is allowed to attend school without a certificate of immunization as described in Subsection (1)(b).

Section 4. Section **53A-11-302** is repealed and reenacted to read:

**53A-11-302. Exemption from required immunizations.**

A student is exempt from receiving required immunizations if, subject to the renewal requirement described in Section 53A-11-302.5, the student's parent or legal guardian presents to the appropriate official of the student's school:

(1) for an exemption for a medical reason:

(a) a certificate from a licensed health care provider stating that due to the physical condition of the student, a required immunization would endanger the student's life or health;  
and

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(b) a certificate of completion for the online education module described in Section 53A-11-302.5, dated within three years of the day the certificate is presented; or

(2) for an exemption for a personal or religious belief:

(a) an immunization exemption form described in Section 53A-11-302.5; and

(b) a certificate of completion for the online education module described in Section 53A-11-302.5, dated within three years of the day the certificate is presented.

Section 5. Section **53A-11-302.5** is repealed and reenacted to read:

**53A-11-302.5. Immunization exemption form -- Online education module --**

### **Renewal requirement.**

(1) The department shall:

(a) develop an immunization exemption form that:

(i) specifies if an exemption is for a personal or religious belief;

(ii) certifies that the individual who signs the form has completed the online education module described in Subsection (2);

(iii) indicates that for a student to receive an exemption from required immunizations, an individual described in Subsection (1)(a)(vi) shall:

(A) present an immunization exemption form to a student's school the first time an exemption is sought; and

(B) renew the student's exemption as described in Subsection (4)(b) when the student enters grade 7, and again when the student enters grade 10;

(iv) states the department's position regarding the benefits of immunization;

(v) states policies for a student who has not received required immunizations, in the event of an outbreak of a vaccine preventable illness;

(vi) includes a statement claiming exemption from one or more required immunizations, signed by:

(A) a student's parent or legal guardian;

(B) for a student who does not have a parent or legal guardian, the student's sibling of legal age; or

(C) for a student 18 years of age or older, the student;

(vii) includes the name and address of the individual who signs the form;

(viii) includes the name of the student claiming exemption from one or more required

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immunizations; and

(ix) includes the name of the school the student attends at the time the form is signed;

and

(b) provide the immunization exemption form to each local health department to distribute.

(2) (a) The department shall develop an online education module that is no longer than 20 minutes and includes:

(i) information about vaccine preventable illnesses;

(ii) recommendations to reduce the likelihood of an unvaccinated individual contracting or transmitting a vaccine preventable illness;

(iii) information, based on the best available science, about vaccines;

(iv) interactive questions or activities; and

(v) for an individual who completes the module, a certificate of completion that includes the date the individual completed the module.

(b) In developing the online education module, the department shall consult with individuals interested in vaccination requirements, including individuals from organizations for health care professionals.

(3) (a) A local health department shall provide an immunization exemption form to an individual who:

(i) requests an immunization exemption form for a student;

(ii) is an individual described in Subsection (1)(a)(vi); and

(iii) presents a certificate of completion for the online education module described in Subsection (2), if the certificate of completion is dated within three years of the day on which the individual presents the certificate of completion.

(b) A local health department may not issue an immunization exemption form to an individual who does not present a certificate of completion for the online education module described in Subsection (2).

(c) An individual who is eligible to sign an immunization exemption form for multiple students may present a single certificate of completion described in Subsection (2) to receive an immunization exemption form for each student.

(4) (a) A student's exemption from required immunizations is subject to the renewal

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requirements described in Subsection (4)(b).

(b) In order to renew an exemption from required immunizations, when a student with an exemption from required immunizations enters grade 7, and again when the student enters grade 10, an individual described in Subsection (1)(a)(vi) shall:

~~— (i) complete the online education module described in Subsection (2); and~~  
~~— (ii) } present a certificate of completion for the online education module, dated within three years of the day on which the certificate is presented, directly to the student's school.~~

(c) An LEA may not charge a fee to renew an immunization exemption form.

(d) An exemption from required immunizations for a student who transfers to or enrolls in a different school may, subject to the renewal requirements described in Subsection (4)(b), be transferred to the student's new school if the student's previous school confirms that the student has an exemption from required immunizations.

(5) For a student who has an immunization exemption for the 2016-2017 school year or earlier, an individual described in Subsection (1)(a)(vi):

(a) is not required to obtain a new immunization exemption form from a local health department; and

(b) shall renew the exemption at the beginning of the student's grade 7 year and again at the beginning of the student's grade 10 year, as described in Subsection (4)(b).

Section 6. Section **53A-11-303** is amended to read:

### **53A-11-303. Department of Health regulations.**

(1) [~~The Department of Health~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall [adopt] make rules to establish:

(a) which immunizations are required [and] as a condition for attending school;

(b) the manner and frequency of [their] the administration[-] of required immunizations;

(c) the immunization exemption form described in Section 53A-11-302.5;

(d) the online education module described in Section 53A-11-302.5; and

(e) the requirements for a conditional enrollment described in Section 53A-11-306.

(2) The rules [~~adopted~~] made under Subsection (1) shall:

(a) conform to recognized standard medical practices[-]; and

~~[(3) The rules shall]~~

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~~(b) require [the reporting of] a school to report statistical information and names of [noncompliers by the schools] students who are not in compliance with Section 53A-11-301 to the department.~~

Section 7. Section **53A-11-304** is amended to read:

**53A-11-304. Certificate part of student's record -- Forms for certificates -- Recording of immunization record as official certificate -- School record of noncertificate holders.**

(1) ~~[Each]~~ A school shall retain an official [certificates] certificate of immunization for [every] an enrolled student[-The certificate becomes a] that is part of the [individual] student's permanent school record [and follows the student through his or her public or private school career].

(2) ~~The [Department of Health shall provide official certificate of immunization forms to public and private]~~ department shall create an immunization form and distribute the immunization form to schools, [physicians] health care providers, and local health departments. [The forms referred to in this subsection shall include a clear statement of the student's rights under Section 53A-11-302.]

~~[(3) Any immunization record provided by a licensed physician, registered nurse, or public health official may be accepted by a school official as a certificate of immunization if the type of immunization given and the dates given are specified and the]~~

(3) (a) A school shall record the information [is transferred to] on a certificate of immunization as an official certificate of immunization [and verified by the school district in which the public or private school is located].

(b) A school shall verify the information on a certificate of immunization.

(4) (a) At the beginning of each school year, a school shall create a list of students who do not have an official certificate of immunization, noting if a student on the list is allowed to attend school without a certificate of immunization, under Section 53A-11-301.

(b) A school shall provide the list of students described in Subsection (4)(a) to the principal or other school director each year.

(c) A name appearing on the list described in Subsection (4)(a) is subject to confidentiality requirements described in Section 26-1-17.5 and Section 53A-13-301.

Section 8. Section **53A-11-306** is repealed and reenacted to read:



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### 53A-11-306. Conditional enrollment -- Suspension for noncompliance --

#### **Procedure.**

(1) (a) A student who has not received one or more required immunizations may attend school on a conditional enrollment:

(i) if the student has received a dose of each required vaccine, but is not due for the next dose of the vaccine under department rule described in Section 53A-11-303; or

(ii) except as provided in Subsection (1)(b), for up to 21 calendar days after the first day of school.

(b) A student who enrolls in a school on or after the twenty-second calendar day after the first day of school may attend school on a conditional enrollment for up to 21 calendar days after the day on which the student enrolls in the school.

(2) (a) After the conditional enrollment period, a school shall prohibit further attendance of a student who does not comply with Section 53A-11-301.

(b) After five days of a student's conditional enrollment, a school shall mail written notice to the student's parent, legal guardian, or, if the student does not have a parent or legal guardian, the student's legal age sibling that:

(i) the student will be suspended at the end of the conditional enrollment if the student is not in compliance with Section 53A-11-301; and

(ii) describes the process for obtaining the required immunizations or an exemption from the required immunizations.

#### **Section 9. Effective date.**

This bill takes effect on July 1, 2017.