

H. B. 3189

(By Delegates Cowles and J. Miller)
[Introduced February 18, 2011; referred to the
Committee on Health and Human Resources then Government
Organization.]

A BILL to amend and reenact §16-3-4 of the Code of West Virginia,
1931, as amended, relating to clarifying that the Legislature
is the sole authority regarding compulsory immunizations and
exemptions from same.

Be it enacted by the Legislature of West Virginia:

That §16-3-4 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

**ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER
INFECTIOUS DISEASES.**

**§16-3-4. Compulsory immunization of school children; information
disseminated; offenses; penalties.**

The Legislature is the sole authority for determining persons
who are subjects of compulsory immunization including, but not
limited to, the nature and timing of immunizations, the process for
performing immunizations and for determining who and under what
circumstances exemptions from compulsory immunizations may be made.

Whenever a resident birth occurs, the state Director of Health

1 shall promptly provide parents of the newborn child with
2 information on immunizations mandated by this state or required for
3 admission to a public school in this state.

4 All children entering school for the first time in this state
5 shall have been immunized against diphtheria, polio, rubeola,
6 rubella, tetanus and whooping cough. Any person who cannot give
7 satisfactory proof of ~~having been immunized previously~~ or present
8 a certificate from a reputable physician showing that an
9 immunization for any or all diphtheria, polio, rubeola, rubella,
10 tetanus and whooping cough is impossible or improper or provide
11 sufficient reason why any or all immunizations should not be done,
12 shall be immunized for diphtheria, polio, rubeola, rubella, tetanus
13 and whooping cough prior to being admitted in any ~~of the schools~~
14 school in the state. No child or person ~~shall~~ may be admitted or
15 received in any ~~of the schools~~ school of the state until he or she
16 has been immunized as hereinafter provided or produces a
17 certificate from a reputable physician showing that ~~an immunization~~
18 ~~for diphtheria, polio, rubeola, rubella, tetanus and whooping cough~~
19 ~~has~~ immunizations have been done or ~~is~~ are impossible or improper
20 or provides other sufficient reason why ~~such~~ immunizations have not
21 been done. ~~Any~~ A teacher having information concerning ~~any a~~
22 person who attempts to enter school for the first time without
23 having been immunized ~~against diphtheria, polio, rubeola, rubella,~~
24 ~~tetanus and whooping cough~~ shall report the names of ~~all such~~
25 ~~persons~~ to the county health officer. It shall be the duty of the
26 health officer in counties having a full-time health officer to see

1 that such persons are immunized before entering school. ~~Provided,~~
2 ~~That~~ Persons enrolling from schools outside of the state may be
3 provisionally enrolled under minimum criteria established by the
4 Director of the Department of Health so that the person's
5 immunization may be completed while missing a minimum amount of
6 school. ~~Provided, however, That no person shall be allowed to~~
7 However, no person may enter school without at least one dose of
8 each required vaccine.

9 In counties where there is no full-time health officer or
10 district health officer, the county commission or municipal council
11 shall appoint competent physicians to do the immunizations and fix
12 their compensation. County health departments shall furnish the
13 biologicals for this immunization free of charge.

14 Health officers and physicians who ~~shall do this~~ perform
15 immunization work shall give to ~~all~~ persons and children a
16 certificate, free of charge, showing ~~that they have been immunized~~
17 immunization against diphtheria, polio, rubeola, rubella, tetanus
18 and whooping cough, or ~~he or she~~ may give the certificate to ~~any a~~
19 person or child whom he or she knows to have been immunized.
20 ~~against diphtheria, polio, rubeola, rubella, tetanus and whooping~~
21 ~~cough.~~ If ~~any a~~ physician ~~shall give~~ gives any person a false
22 certificate of immunization, ~~against diphtheria, polio, rubeola,~~
23 ~~rubella, tetanus and whooping cough,~~ he or she ~~shall be~~ is guilty
24 of a misdemeanor, and, upon conviction, shall be fined not less
25 than \$25 nor more than \$100.

26 ~~Any~~ A parent or guardian who refuses to permit his or her

1 child to be immunized against diphtheria, polio, rubeola, rubella,
2 tetanus and whooping cough and who cannot give satisfactory proof
3 that the child or person has been immunized, ~~against diphtheria,~~
4 ~~polio, rubeola, rubella, tetanus and whooping cough previously, or~~
5 cannot present a certificate from a reputable physician showing
6 that immunization for any or all is impossible or improper or
7 cannot provide sufficient reason why any or all immunizations
8 should not be done, ~~shall be~~ is guilty of a misdemeanor and, except
9 as herein otherwise provided, shall, upon conviction, be punished
10 by a fine of not less than \$10 nor more than \$50 for each offense.

NOTE: The purpose of this bill is to clarify that the Legislature has sole authority in regards to matters concerning compulsory immunizations.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added.