CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 1638**

Chapter 362, Laws of 2019

(partial veto)

66th Legislature

2019 Regular Session

MEASLES, MUMPS, AND RUBELLA VACCINE--SCHOOLS AND DAY CARE CENTERS

EFFECTIVE DATE: July 28, 2019

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| Passed by the House April 23, 2019  Yeas 56 Nays 40  FRANK CHOPP  **Speaker of the House of Representatives**  Passed by the Senate April 17, 2019  Yeas 25 Nays 22  CYRUS HABIB  **President of the Senate** | CERTIFICATE  I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1638** as passed by the House of Representatives and the Senate on the dates hereon set forth.  BERNARD DEAN  Chief Clerk |
| Approved May 10, 2019 10:36 AM with the exception of sections 1 and 4, which are vetoed. | May 13, 2019 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**ENGROSSED HOUSE BILL 1638**

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AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Harris, Stonier, Robinson, Macri, Jinkins, Cody, Thai, Davis, Appleton, Doglio, Frame, Stanford, Bergquist, Santos, and Tarleton

AN ACT Relating to promoting immunity against vaccine preventable diseases; amending RCW 28A.210.080 and 28A.210.090; adding a new section to chapter 43.216 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 28A.210.080 and 2007 c 276 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the attendance of every child at every public and private school in the state and licensed day care center shall be conditioned upon the presentation before or on each child's first day of attendance at a particular school or center, of proof of either (a) full immunization, (b) the initiation of and compliance with a schedule of immunization, as required by rules of the state board of health, or (c) a certificate of exemption as provided for in RCW 28A.210.090. The attendance at the school or the day care center during any subsequent school year of a child who has initiated a schedule of immunization shall be conditioned upon the presentation of proof of compliance with the schedule on the child's first day of attendance during the subsequent school year. Once proof of full immunization or proof of completion of an approved schedule has been presented, no further proof shall be required as a condition to attendance at the particular school or center.

(2) Proof of disease immunity through documentation of laboratory evidence of antibody titer or a health care provider's attestation of a child's history of a disease sufficient to provide immunity against that disease constitutes proof of immunization for that specific disease.

(3)(a) Beginning with sixth grade entry, every public and private school in the state shall provide parents and guardians with information about meningococcal disease and its vaccine at the beginning of every school year. The information about meningococcal disease shall include:

(i) Its causes and symptoms, how meningococcal disease is spread, and the places where parents and guardians may obtain additional information and vaccinations for their children; and

(ii) Current recommendations from the United States centers for disease control and prevention regarding the receipt of vaccines for meningococcal disease and where the vaccination can be received.

(b) This subsection shall not be construed to require the department of health or the school to provide meningococcal vaccination to students.

(c) The department of health shall prepare the informational materials and shall consult with the office of superintendent of public instruction.

(d) This subsection does not create a private right of action.

((~~(3)~~)) (4)(a) Beginning with sixth grade entry, every public school in the state shall provide parents and guardians with information about human papillomavirus disease and its vaccine at the beginning of every school year. The information about human papillomavirus disease shall include:

(i) Its causes and symptoms, how human papillomavirus disease is spread, and the places where parents and guardians may obtain additional information and vaccinations for their children; and

(ii) Current recommendations from the United States centers for disease control and prevention regarding the receipt of vaccines for human papillomavirus disease and where the vaccination can be received.

(b) This subsection shall not be construed to require the department of health or the school to provide human papillomavirus vaccination to students.

(c) The department of health shall prepare the informational materials and shall consult with the office of the superintendent of public instruction.

(d) This subsection does not create a private right of action.

((~~(4)~~)) (5) Private schools are required by state law to notify parents that information on the human papillomavirus disease prepared by the department of health is available.

**Sec.**  RCW 28A.210.090 and 2011 c 299 s 1 are each amended to read as follows:

(1) Any child shall be exempt in whole or in part from the immunization measures required by RCW 28A.210.060 through 28A.210.170 upon the presentation of any one or more of the certifications required by this section, on a form prescribed by the department of health:

(a) A written certification signed by a health care practitioner that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the child: PROVIDED, That when it is determined that this particular vaccine is no longer contraindicated, the child will be required to have the vaccine;

(b) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the religious beliefs of the signator are contrary to the required immunization measures; or

(c) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the signator has either a philosophical or personal objection to the immunization of the child. A philosophical or personal objection may not be used to exempt a child from the measles, mumps, and rubella vaccine.

(2)(a) The form presented on or after July 22, 2011, must include a statement to be signed by a health care practitioner stating that he or she provided the signator with information about the benefits and risks of immunization to the child. The form may be signed by a health care practitioner at any time prior to the enrollment of the child in a school or licensed day care. Photocopies of the signed form or a letter from the health care practitioner referencing the child's name shall be accepted in lieu of the original form.

(b) A health care practitioner who, in good faith, signs the statement provided for in (a) of this subsection is immune from civil liability for providing the signature.

(c) Any parent or legal guardian of the child or any adult in loco parentis to the child who exempts the child due to religious beliefs pursuant to subsection (1)(b) of this section is not required to have the form provided for in (a) of this subsection signed by a health care practitioner if the parent or legal guardian demonstrates membership in a religious body or a church in which the religious beliefs or teachings of the church preclude a health care practitioner from providing medical treatment to the child.

(3) For purposes of this section, "health care practitioner" means a physician licensed under chapter 18.71 or 18.57 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A or 18.57A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

NEW SECTION. **Sec.**  A new section is added to chapter 43.216 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, a child day care center licensed under this chapter may not allow on the premises an employee or volunteer, who has not provided the child day care center with:

(a) Immunization records indicating that he or she has received the measles, mumps, and rubella vaccine; or

(b) Proof of immunity from measles through documentation of laboratory evidence of antibody titer or a health care provider's attestation of the person's history of measles sufficient to provide immunity against measles.

(2)(a) The child day care center may allow a person to be employed or volunteer on the premises for up to thirty calendar days if he or she signs a written attestation that he or she has received the measles, mumps, and rubella vaccine or is immune from measles, but requires additional time to obtain and provide the records required in subsection (1)(a) or (b) of this section.

(b) The child day care center may allow a person to be employed or volunteer on the premises if the person provides the child day care center with a written certification signed by a health care practitioner, as defined in RCW 28A.210.090, that the measles, mumps, and rubella vaccine is, in the practitioner's judgment, not advisable for the person. This subsection (2)(b) does not apply if it is determined that the measles, mumps, and rubella vaccine is no longer contraindicated.

(3) The child day care center shall maintain the documents required in subsection (1) or (2) of this section in the person's personnel record maintained by the child day care center.

(4) For purposes of this section, "volunteer" means a nonemployee who provides care and supervision to children at the child day care center.

NEW SECTION. **Sec.**  The department of health may adopt rules necessary to implement RCW 28A.210.080 and 28A.210.090.

**--- END ---**

Passed by the House April 23, 2019.

Passed by the Senate April 17, 2019.

Approved by the Governor May 10, 2019, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2019.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 1 and 4, Engrossed House Bill No. 1638 entitled:

"AN ACT Relating to promoting immunity against vaccine preventable diseases."

Section 1 authorizes an exemption for proof of immunity based on an antibody test called a titer test. This provision is written too broadly because it applies to all vaccines, not just to Measles, Mumps, and Rubella (or MMR) and other conditions in which an antibody test is reliable. In addition, the Board of Health already allows the use of an antibody test for those vaccines in which the test is reliable, like MMR, so this provision is also unnecessary.

Section 4 contains a rulemaking clause that is unnecessary. Current law already permits the state Board of Health to perform these rulemaking functions, not the Department of Health as this section provides.

These minor changes will not disturb the substance of the bill.

For these reasons I have vetoed Sections 1 and 4 of Engrossed House Bill No. 1638.

With the exception of Sections 1 and 4, Engrossed House Bill No. 1638 is approved."