

# STATE OF NEW YORK

---

8761--B

R. R. 534

2005-2006 Regular Sessions

## IN ASSEMBLY

June 9, 2005

---

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Gottfried)  
-- read once and referred to the Committee on Health -- recommitted to  
the Committee on Rules in accordance with Assembly Rule 3, sec. 2 --  
Rules Committee discharged, bill amended, ordered reprinted as amended  
and recommitted to the Committee on Rules -- passed by Assembly and  
delivered to the Senate, recalled from the Senate, vote reconsidered,  
bill amended, ordered reprinted, retaining its place on the special  
order of third reading

AN ACT to amend the public health law, in relation to requiring immuni-  
zation against pneumococcal disease

**The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:**

- 1 Section 1. The section heading, subdivisions 2, 3, 5 and 6, paragraph  
2 (a) of subdivision 7 and the opening paragraph of subdivision 8-a of  
3 section 2164 of the public health law, as amended by chapter 207 of the  
4 laws of 2004, are amended to read as follows:  
5 Definitions; immunization against poliomyelitis, mumps, measles,  
6 diphtheria, rubella, varicella, Haemophilus influenzae type b (Hib),  
7 pertussis, tetanus, **pneumococcal disease**, and hepatitis B.  
8 2. Every person in parental relation to a child in this state shall  
9 have administered to such child an adequate dose or doses of an immuniz-  
10 ing agent against poliomyelitis, mumps, measles, diphtheria, rubella,  
11 varicella, Haemophilus influenzae type b (Hib), pertussis, tetanus,  
12 **pneumococcal disease**, and hepatitis B, which meets the standards  
13 approved by the United States public health service for such biological  
14 products, and which is approved by the department under such conditions  
15 as may be specified by the public health council.  
16 3. The person in parental relation to any such child who has not  
17 previously received such immunization shall present the child to a  
18 health practitioner and request such health practitioner to administer  
19 the necessary immunization against poliomyelitis, mumps, measles,

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD11765-04-6

1 diphtheria, Haemophilus influenzae type b (Hib), rubella, varicella,  
2 pertussis, tetanus, pneumococcal disease, and hepatitis B as provided in  
3 subdivision two of this section.

4 5. The health practitioner who administers such immunizing agent  
5 against poliomyelitis, mumps, measles, diphtheria, Haemophilus influen-  
6 zae type b (Hib), rubella, varicella, pertussis, tetanus, pneumococcal  
7 disease, and hepatitis B to any such child shall give a certificate of  
8 such immunization to the person in parental relation to such child.

9 6. In the event that a person in parental relation to a child makes  
10 application for admission of such child to a school or has a child  
11 attending school and there exists no certificate or other acceptable  
12 evidence of the child's immunization against poliomyelitis, mumps,  
13 measles, diphtheria, rubella, varicella, hepatitis B, pertussis, teta-  
14 nus, and, where applicable, Haemophilus influenzae type b (Hib) and  
15 pneumococcal disease, the principal, teacher, owner or person in charge  
16 of the school shall inform such person of the necessity to have the  
17 child immunized, that such immunization may be administered by any  
18 health practitioner, or that the child may be immunized without charge  
19 by the health officer in the county where the child resides, if such  
20 person executes a consent therefor. In the event that such person does  
21 not wish to select a health practitioner to administer the immunization,  
22 he or she shall be provided with a form which shall give notice that as  
23 a prerequisite to processing the application for admission to, or for  
24 continued attendance at, the school such person shall state a valid  
25 reason for withholding consent or consent shall be given for immuniza-  
26 tion to be administered by a health officer in the public employ, or by  
27 a school physician or nurse. The form shall provide for the execution of  
28 a consent by such person and it shall also state that such person need  
29 not execute such consent if subdivision eight or nine of this section  
30 apply to such child.

31 (a) No principal, teacher, owner or person in charge of a school shall  
32 permit any child to be admitted to such school, or to attend such  
33 school, in excess of fourteen days, without the certificate provided for  
34 in subdivision five of this section or some other acceptable evidence of  
35 the child's immunization against poliomyelitis, mumps, measles, diphthe-  
36 ria, rubella, varicella, hepatitis B, pertussis, tetanus, and, where  
37 applicable, Haemophilus influenzae type b (Hib) and pneumococcal  
38 disease; provided, however, such fourteen day period may be extended to  
39 not more than thirty days for an individual student by the appropriate  
40 principal, teacher, owner or other person in charge where such student  
41 is transferring from out-of-state or from another country and can show a  
42 good faith effort to get the necessary certification or other evidence  
43 of immunization.

44 Whenever a child has been refused admission to, or continued attend-  
45 ance at, a school as provided for in subdivision seven of this section  
46 because there exists no certificate provided for in subdivision five of  
47 this section or other acceptable evidence of the child's immunization  
48 against poliomyelitis, mumps, measles, diphtheria, rubella, varicella,  
49 hepatitis B, pertussis, tetanus, and, where applicable, Haemophilus  
50 influenzae type b (Hib) and pneumococcal disease, the principal, teach-  
51 er, owner or person in charge of the school shall:

52 § 2. Subdivision 1 of section 613 of the public health law, as amended  
53 by chapter 207 of the laws of 2004, is amended to read as follows:

54 1. The commissioner shall develop and supervise the execution of a  
55 program of immunization, surveillance and testing, to raise to the high-  
56 est reasonable level the immunity of the children of the state against

1 communicable diseases including, but not limited to, poliomyelitis,  
2 measles, mumps, rubella, haemophilus influenzae type b (Hib), diphthe-  
3 ria, pertussis, tetanus, varicella, hepatitis B, pneumococcal disease,  
4 and the immunity of adults of the state against diseases identified by  
5 the commissioner, including but not limited to influenza, smallpox, and  
6 hepatitis. The commissioner shall encourage the municipalities in the  
7 state to develop and shall assist them in the development and the  
8 execution of local programs of inoculation to raise the immunity of the  
9 children and adults of each municipality to the highest reasonable  
10 level. Such programs shall include provision of vaccine, surveillance of  
11 vaccine effectiveness by means of laboratory tests, serological testing  
12 of individuals and educational efforts to inform health care providers  
13 and target populations or their parents, if they are minors, of the  
14 facts relative to these diseases and inoculation to prevent their occur-  
15 rence. The commissioner shall invite and encourage the active assistance  
16 and cooperation in such education activities of: the medical societies,  
17 organizations of other licensed health personnel, hospitals, corpo-  
18 rations subject to article forty-three of the insurance law, trade  
19 unions, trade associations, parents and teachers and their associations,  
20 the media of mass communication, and such other voluntary groups and  
21 organizations of citizens as he or she shall deem appropriate. The  
22 public health council, the department of education, the department of  
23 family assistance, and the department of mental hygiene shall provide  
24 the commissioner with such assistance in carrying out the program as he  
25 or she shall request. All other state agencies shall also render such  
26 assistance as the commissioner may reasonably require for this program.  
27 Nothing in this subdivision shall authorize mandatory immunization of  
28 adults or children, except as provided in sections twenty-one hundred  
29 sixty-four and twenty-one hundred sixty-five of this chapter.  
30 § 3. This act shall take effect immediately and shall apply to chil-  
31 dren born on and after January 1, 2008 beginning with their enrollment  
32 in any school as defined in paragraph a of subdivision 1 of section 2164  
33 of the public health law.

---

**NEW YORK STATE ASSEMBLY**  
**MEMORANDUM IN SUPPORT OF LEGISLATION**  
**submitted in accordance with Assembly Rule III, Sec 1(f)**

**BILL NUMBER:** A8761B

**SPONSOR:** Rules (Gottfried)

**TITLE OF BILL:** An act to amend the public health law, in relation to  
requiring immunization against pneumococcal disease

**PURPOSE OR GENERAL IDEA OF BILL:** The purpose of this bill is to  
require that all children be vaccinated for pneumococcal disease prior  
to their admission to any child care center, day nursery day care agency  
and nursery school.

**SUMMARY OF SPECIFIC PROVISIONS:**

Section 1 of the bill adds pneumococcal disease to the list of diseases for which a child must be vaccinated in order to be admitted to pre-school.

Section 2 of the bill adds pneumococcal disease to the list of diseases for which the Department of Health may engage in surveillance and testing of vaccines, encourage municipalities to do local immunization programs, and engage in general activities that promote childhood vaccination statewide.

Section 3 of the bill states its effective date.

**JUSTIFICATION:** In 2001, the New York State Immunization Advisory Council recommended that New York State pass legislation to require pneumococcal immunization for all children entering or currently in day care. Pneumococcal disease is responsible for more than 200 deaths a year in children under the age of 5. It is the leading cause of bacterial meningitis in the United States. Before the vaccine was developed, pneumococcal infection caused over 700 cases of meningitis, 13,000 blood infections, and about 5 million ear infections a year. Other health problems directly linked to pneumococcal infection include pneumonia, deafness, and brain damage. Infants who receive the recommended doses will be protected from pneumococcal disease through early childhood. Having the requirement in statute would encourage insurance companies to cover the immunization. In recognition of the growing number of children in child care, it is imperative that we require pneumococcal immunization for all children entering daycare and pre-school.

**PRIOR LEGISLATIVE HISTORY:** New bill.

**FISCAL IMPLICATIONS:** None noted.

**EFFECTIVE DATE:** Immediately, and shall apply to children born on or after January 1, 2008 beginning with their enrollment in any daycare or pre-school.

---