

# ASSEMBLY, No. 351

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblyman RALPH R. CAPUTO**

**District 28 (Essex)**

**Assemblywoman CLEOPATRA G. TUCKER**

**District 28 (Essex)**

**SYNOPSIS**

Permits exemption from mandatory immunization for students in writing for any reason.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



A351 CAPUTO, TUCKER

2

1 AN ACT concerning vaccinations for students and amending  
2 P.L.1974, c.150, P.L.1986, c.134, P.L.2004, c.138, P.L.2002,  
3 c.58, and P.L.2003, c.284.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 6 of P.L.1974, c.150 (C.26:1A-9.1) is amended to  
9 read as follows:

10 6. **【Provisions in】** a. As used in this section:

11 "Mandatory immunization" means a vaccination required by  
12 statute or regulation as a condition for school attendance.

13 "School" means a public or private institution of higher  
14 education, public or private school, kindergarten, nursery school,  
15 preschool, or child care facility in this State.

16 "Student" means a person attending a public or private institution  
17 of higher education, public or private school, kindergarten, nursery  
18 school, preschool, or child care facility in this State.

19 b. Notwithstanding the provisions of any other statute or  
20 regulation to the contrary, the provisions of the State Sanitary Code  
21 in the implementation of this act shall provide for the exemption  
22 **【for pupils】** of a student from mandatory immunization if the  
23 student, or the parent or guardian of the 【pupil】 student if the  
24 student is a minor, objects 【thereto in a written statement signed by  
25 the parent or guardian upon the ground that the proposed  
26 immunization interferes with the free exercise of the pupil's  
27 religious rights】 to the immunization in writing, for any reason, on  
28 a form, to be signed by that individual, which is provided pursuant  
29 to subsection e. of this section. This exemption may be suspended  
30 by the 【State】 Commissioner of Health and Senior Services during  
31 the existence of an emergency as determined by the 【State  
32 Commissioner of Health】 commissioner.

33 c. The provisions of this section shall not be construed to affect  
34 the authority of the commissioner to exclude a student from school  
35 during a vaccine-preventable disease outbreak or threatened  
36 outbreak as determined by the commissioner or the commissioner's  
37 designee.

38 d. Pursuant to the provisions of R.S.26:4-6, a school official  
39 may prohibit the attendance of a student who has been granted an  
40 exemption pursuant to subsection b. of this section and is under a  
41 school official's control, on account of the prevalence of a  
42 communicable disease, or to prevent the spread of a communicable  
43 disease. The school official may also specify the duration of time  
44 that the student with an exemption must remain away from school.

**EXPLANATION** – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1       e. The commissioner shall develop a form, which may be  
2 downloaded from the Internet website of the Department of Health  
3 and Senior Services, for use by a student, or the parent or guardian  
4 of the student if the student is a minor, who wishes to state that  
5 person's objection to immunization pursuant to this section; and  
6 each school shall make that form available to parents, guardians,  
7 and adult students. A school shall retain the completed form and  
8 furnish a copy to the parent, guardian, or adult student, as  
9 applicable.

10 (cf: P.L.1974, c.150, s.6)

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12       2. Section 4 of P.L.1986, c.134 (C.26:2N-4) is amended as  
13 follows:

14       4. A child shall not be required to receive a pertussis vaccine as  
15 a condition for admission to a public or private school if:

16       a. the child's health care provider states in writing that the  
17 vaccine is medically contraindicated pursuant to subsection b. (1) of  
18 section 2 of this act and the reasons for the medical contradictions;  
19 or

20       b. the child's parent or guardian objects to the administration  
21 of the vaccine in accordance with the provisions of section 6 of  
22 P.L.1974, c.150 (C.26:1A-9.1).

23 (cf: P.L.1986, c.134, s.4)

24  
25       3. Section 6 of P.L.2004, c.138 (C.26:4-136) is amended as  
26 follows:

27       6. The provisions of this act shall not be construed to affect the  
28 obligation of any person, or the person's parent or legal guardian if  
29 the person is a minor, to comply with any immunization  
30 requirement, or the right of that person, parent or legal guardian to  
31 request an exemption from the immunization requirement **【on the**  
32 **grounds that an immunization is medically contraindicated or that**  
33 **the requirement conflicts with the religious tenets or practices of the**  
34 **person, parent or legal guardian】**, as otherwise **【established】**  
35 provided by statute or by regulation of the department.

36 (cf: P.L.2004, c.138, s.6)

37  
38       4. Section 4 of P.L.2002, c.58 (C.18A:61D-10) is amended to  
39 read as follows:

40       4. A student shall not be required to receive a vaccination  
41 pursuant to section 2 or 3 of **【this act】** P.L.2002, c.58 (C.18A:61D-  
42 9 or C.18A:40-21.1) based upon one of the following:

43       a. a written statement submitted to the secondary school or  
44 institution of higher education, as applicable, by a licensed  
45 physician indicating that the vaccine is medically contraindicated  
46 for a specific period of time and the reasons for the medical  
47 contraindication, based upon valid medical reasons as determined

1 by regulation of the Commissioner of Health and Senior Services,  
2 which shall exempt the student from the vaccination for the stated  
3 period of time; or

4 b. a written **【statement】** objection to the administration of the  
5 vaccine for any reason, submitted to the secondary school or  
6 institution of higher education, as applicable, by the student, or the  
7 student's parent or guardian if the student is a minor, **【explaining**  
8 how the administration of the vaccine conflicts with the bona fide  
9 religious tenets or practices of the student, or the parent or guardian,  
10 as appropriate; except that a general philosophical or moral  
11 objection to the vaccination shall not be sufficient for an exemption  
12 on religious grounds**】** on a form to be signed by that individual,  
13 which is provided pursuant to section 6 of P.L.1974, c.150  
14 (C.26:1A-9.1).

15 (cf: P.L.2002, c.58, s.4)

16

17 5. Section 3 of P.L.2003, c.284 (C.18A:62-15.2) is amended to  
18 read as follows:

19 3. a. A student shall not be required to receive a vaccination  
20 pursuant to subsection a. of section 2 of **【this act】** P.L.2003, c.284  
21 (C.18A:62-15.1) based upon one of the following:

22 (1) a written statement submitted to the institution of higher  
23 education by a licensed physician indicating that the vaccine is  
24 medically contraindicated for a specific period of time and the  
25 reasons for the medical contraindication, based upon valid medical  
26 reasons as determined by regulation of the Commissioner of Health  
27 and Senior Services, which shall exempt the student from the  
28 vaccination for the stated period of time; or

29 (2) a written **【statement】** objection to the administration of the  
30 vaccine for any reason, submitted to the institution of higher  
31 education by the student, or the student's parent or guardian if the  
32 student is a minor, **【explaining** how the administration of the  
33 vaccine conflicts with the bona fide religious tenets or practices of  
34 the student, or the parent or guardian, as appropriate; except that a  
35 general philosophical or moral objection to the vaccination shall not  
36 be sufficient for an exemption on religious grounds**】** on a form to  
37 be signed by that individual, which is provided pursuant to section 6  
38 of P.L.1974, c.150 (C.26:1A-9.1).

39 b. In the event of an actual or threatened outbreak of meningitis  
40 at a public or private institution of higher education in this State,  
41 the institution may exclude from attendance a student who has been  
42 exempted from the vaccination requirement of this act pursuant to  
43 subsection a. of this section, as determined by the Commissioner of  
44 Health and Senior Services.

45 (cf: P.L.2003, c.284, s.3)

46

47 6. The Commissioner of Health and Senior Services shall,

1 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
2 (C.52:14B-1 et seq.), adopt rules and regulations to effectuate the  
3 purposes of this act.  
4

5 7. This act shall take effect on the 120th day following  
6 enactment, but the Commissioner of Health and Senior Services  
7 may take such anticipatory administrative action in advance thereof  
8 as shall be necessary for the implementation of the act.  
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10

11

STATEMENT

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13 This bill expands the right of individuals to object to the  
14 administration of vaccines that are mandated under State statute or  
15 regulations.

16 Currently, State law only permits an exemption from required  
17 immunizations when: a vaccine is medically contraindicated, as  
18 stated in writing by a person's health care provider; or interferes  
19 with the free exercise of religious rights, as when a person, or the  
20 person's parent or guardian if the person is a minor, states in  
21 writing that administration of a vaccine would conflict with their  
22 bona fide religious tenets or practices. This bill will significantly  
23 broaden the basis on which an individual may be exempted from a  
24 required immunization, in recognition of increasingly widespread  
25 concerns in regard to possible evidence of vaccine-related adverse  
26 health consequences (such as autism spectrum disorder) for young  
27 children who are subject to an ever-increasing number of mandatory  
28 vaccinations.

29 The bill provides specifically as follows:

- 30 • The bill amends section 6 of P.L.1974, c.150 (C.26:1A-9.1) to  
31 require that the regulations incorporated in the State Sanitary  
32 Code pursuant to Title 26 of the Revised Statutes provide for the  
33 exemption of a student from mandatory immunization if the  
34 student, or the parent or guardian of the student if the student is a  
35 minor, objects to the immunization in writing, for any reason, on  
36 a form, to be signed by that individual, which is provided  
37 pursuant to the bill.
- 38 • This exemption may be suspended by the Commissioner of  
39 Health and Senior Services during the existence of an emergency  
40 as determined by the commissioner.
- 41 • The provisions of the bill are not to be construed to affect the  
42 authority of the commissioner to exclude a student from school  
43 during a vaccine-preventable disease outbreak or threatened  
44 outbreak as determined by the commissioner or the  
45 commissioner's designee.
- 46 • Pursuant to the provisions of R.S.26:4-6, a school official may  
47 prohibit the attendance of a student who has been granted an

1 exemption pursuant to this bill and is under a school official's  
2 control, on account of the prevalence of a communicable disease,  
3 or to prevent the spread of a communicable disease. The school  
4 official may also specify the duration of time that the student with  
5 an exemption must remain away from school.

- 6 • The commissioner is to develop a form, which may be  
7 downloaded from the Internet website of the Department of  
8 Health and Senior Services, for use by a student, or the parent or  
9 guardian of the student if the student is a minor, who wishes to  
10 state that person's objection to immunization pursuant to the bill;  
11 and each school is to make that form available to parents,  
12 guardians, and adult students. A school will retain the completed  
13 form and furnish a copy to the parent, guardian, or adult student,  
14 as applicable.
- 15 • The bill defines:
  - 16 -- "mandatory immunization" to mean a vaccination required by  
17 statute or regulation as a condition for school attendance;
  - 18 -- "school" to mean a public or private institution of higher  
19 education, public or private school, kindergarten, nursery school,  
20 preschool, or child care facility in this State; and
  - 21 -- "student" to mean a person attending a public or private  
22 institution of higher education, public or private school,  
23 kindergarten, nursery school, preschool, or child care facility in this  
24 State.
- 25 • The bill revises other statutes governing required immunizations  
26 to reflect the above provisions, including:
  - 27 -- P.L.1986, c.134 (C.26:2N-1 et seq.), concerning pertussis  
28 immunization, which is required as a condition of attendance at  
29 elementary schools (pursuant to N.J.A.C.8:57-4.10);
  - 30 -- P.L.2004, c.138 (C.26:4-131 et seq.), concerning the  
31 Statewide Immunization Registry established pursuant to that law;
  - 32 -- P.L.2002, c.58 (C.18A:61D-8 et al.), concerning hepatitis B  
33 immunization as a condition of enrollment in high school and at an  
34 institution of higher education in this State; and
  - 35 -- P.L.2003, c.284 (C.18A:62-15.1 et seq.), concerning  
36 meningococcal vaccination as a condition of enrollment at an  
37 institution of higher education in this State.

38 The bill takes effect on the 120th day after enactment, but  
39 authorizes the Commissioner of Health and Senior Services to take  
40 anticipatory administrative action in advance as necessary for its  
41 implementation.