

JAN 25 2006

A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that thimerosal is a
2 preservative that has been used in some vaccines since the 1930s
3 and consists of 49.6 per cent mercury by weight and is
4 metabolized or degraded into ethylmercury and thiosalicylate.
5 While the use of mercury-containing preservatives has declined
6 in recent years, thimerosal is still used in certain vaccines
7 recommended for adults, pregnant women, and children.

8 The United States Food and Drug Administration acknowledges
9 that: "depending on the vaccine formulations used and the
10 weight of the infant, some infants could have been exposed to
11 cumulative levels of mercury during the first six months of life
12 that exceeded EPA [Environmental Protection Agency] recommended
13 guidelines for safe intake of methylmercury. As a precautionary
14 measure, the Public Health Service (including the FDA, National
15 Institutes of Health [NIH], Centers for Disease Control and
16 Prevention [CDC] and Health Resources and Services
17 Administration [HRSA]) and the American Academy of Pediatrics
18 issued a Joint Statement on July 7, 1999, urging vaccine



1 manufacturers to reduce or eliminate thimerosal in vaccines as
2 soon as possible."

3 Legislation to ban thimerosal-containing vaccines has been
4 enacted in six states - California, Delaware, Illinois, Iowa,
5 Missouri, and New York. Fourteen other states have introduced
6 similar legislation.

7 The purpose of this Act is to prohibit the use of mercury-
8 containing vaccines in Hawaii.

9 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 **"§321- Mercury-containing vaccines; prohibited. (a)**
13 Depending upon availability in this State, preference during the
14 2006-2007 influenza season shall be given to children under ten
15 years of age and pregnant women to receive no vaccine containing
16 more than a trace of mercury, defined as 1.25 micrograms per
17 administered dose amount.

18 (1) The department of health may seek an exemption from
19 this section only when it determines, and the governor
20 agrees, that an emergency exists, and only if there is
21 a shortage of the mercury-free product. In that case,
22 the exemption shall not last longer than six months;



1 provided further that anyone receiving a vaccine that
2 is not mercury-free shall be informed in advance in
3 writing that the product contains a mercury-based
4 preservative. The exemption shall apply to children
5 under the age of thirty-six months only if that
6 formula (0.25 cc pediatric dose) is unavailable.
7 Likewise, exemptions for individuals three years of
8 age and older shall apply only in the absence of adult
9 formulation of influenza vaccine (0.5 cc adult dose).

10 (2) Any person claiming to be aggrieved by a violation of
11 this subsection may file a civil action to enforce
12 this subsection and may seek an injunction as well as
13 damages, including reasonable attorneys' fees and
14 costs; and

15 (3) The department of health shall immediately notify all
16 vaccine providers of this subsection.

17 (b) Commencing in the fall at the onset of the 2007-2008
18 influenza season, no person shall be vaccinated with a vaccine
19 or injected with any product that contains, or prior to dilution
20 had contained as an additive, any mercury-based product, whether
21 as a preservative or at a trace amount level.



1 (1) The department may seek an exemption from this
 2 subsection only when it determines, and the governor
 3 agrees, that an emergency exists, and only if there is
 4 a shortage of the mercury-free product. In such case,
 5 the exemption shall not last longer than six months;
 6 provided further that anyone receiving a vaccine that
 7 is not mercury-free shall be informed in advance in
 8 writing that the product contains a mercury-based
 9 preservative;

10 (2) Any person claiming to be aggrieved by a violation of
 11 this subsection may file a civil action to enforce
 12 this subsection and may seek an injunction as well as
 13 damages, including reasonable attorneys' fees and
 14 costs; and

15 (3) The department of health is required to notify all
 16 medical providers of this subsection."

17 SECTION 3. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval.

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Report Title:

Mercury-Containing Vaccines; Thimerosal; Prohibit Use

Description:

For 2006-2007 flu season, gives preference to children under 10 and pregnant women not to be given vaccines containing more than a trace amount of mercury. For 2007-2008 flu season, prohibits such vaccinations for all. Allows certain exemptions.

