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## A BILL FOR AN ACT

RELATING TO VACCINATIONS.

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

1 SECTION 1. Section 302A-1154, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) [~~No~~] A child [shall] may attend any school in the  
4 State [~~unless~~] if the child presents to the appropriate school  
5 official documentation satisfactory to the department of health  
6 that the child has received immunizations against communicable  
7 diseases as [~~required~~] recommended by the department of  
8 health[-]; provided that any parent, custodian, guardian, or any  
9 other person in loco parentis to a child may object to  
10 immunization on any grounds pursuant to section 302A-1156, and  
11 upon showing the appropriate school official satisfactory  
12 evidence of the exemption, no certificate or other evidence of  
13 immunization shall be required for the child's entry into  
14 school."

15 SECTION 2. Section 302A-1155, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§302A-1155 Provisional entrance to school.** (a) A child  
18 may enter school provisionally upon submitting written



1 documentation from a licensed physician, advanced practice  
2 registered nurse, or an authorized representative of the  
3 department of health, stating that the child is in the process  
4 of receiving the [~~required~~] recommended immunizations. Further  
5 documentation showing that the [~~required~~] recommended  
6 immunizations have been completed shall be submitted to the  
7 appropriate school official no later than three months after the  
8 child first entered the school. If all of the [~~required~~]  
9 recommended immunizations cannot be completed within three  
10 months due to the length of the minimum intervals between doses  
11 of a particular vaccine [~~required~~] recommended by the department  
12 of health, provisional admission may be extended so long as the  
13 child's parent or guardian provides documentation that  
14 appointments for [~~required~~] recommended immunizations have been  
15 made and that progress toward completing the immunizations  
16 continues in accordance with the requirements of the department  
17 of health.

18 (b) Provisional entrance to school may be suspended by the  
19 department of health when there is danger of an epidemic from  
20 any of the communicable diseases for which immunization is  
21 [~~required.~~] recommended."



1 SECTION 3. Section 302A-1156, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§302A-1156[+] **Exemptions.** A child may be exempted  
4 from the [~~required~~] recommended immunizations:

5 (1) If a licensed physician certifies that the physical  
6 condition of the child is such that immunizations  
7 would endanger the child's life or health; or

8 (2) If any parent, custodian, guardian, or any other  
9 person in loco parentis to a child objects to  
10 immunization in writing on any grounds, including the  
11 grounds that the immunization conflicts with that  
12 person's bona fide religious tenets and practices.  
13 Upon showing the appropriate school official  
14 satisfactory evidence of the exemption, no certificate  
15 or other evidence of immunization shall be required  
16 for the child's entry into school."

17 SECTION 4. Section 302A-1157, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "[+]§302A-1157[+] **Exemptions from immunization; not**  
20 **recognized; epidemic conditions.** If at any time there is, in  
21 the opinion of the department of health, danger of an epidemic  
22 from any of the communicable diseases for which immunization is



1 [~~required~~] recommended under sections 302A-1154 to 302A-1163, no  
2 exemption from immunization against the disease shall be  
3 recognized. Quarantine shall be a legal alternative to  
4 immunization."

5 SECTION 5. Section 302A-1161, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "**§302A-1161 Notification for noncompliance.** If a child  
8 does not complete the [~~immunizations required~~]:

9 (1) Immunizations recommended under section 302A-1154; or  
10 [the]

11 (2) The physical examination required under section  
12 302A-1159

13 within the period provided by section 302A-1155 after  
14 provisional entry into school, the administrator of the school  
15 shall cause a notice to be sent to the parent or guardian of the  
16 child stating that if the [~~required~~] recommended immunizations,  
17 unless an exemption is obtained pursuant to section 302A-1156,  
18 or physical examination is not completed within thirty days of  
19 the date of the notice, the child shall not be admitted to  
20 school."

21 SECTION 6. Section 302A-1162, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:



1           "(a) The department of health shall adopt rules under  
2 chapter 91 relating to immunization, physical examination, and  
3 tuberculin testing under sections 302A-1154 to 302A-1163.  
4 Immunizations [~~required,~~ recommended, and the manner and  
5 frequency of their administration, shall conform with recognized  
6 standard medical practices. The list of diseases and minimum  
7 requirements for protection under sections 302A-1154 to 302A-  
8 1163 may be revised whenever the department of health deems it  
9 necessary for the protection of public health."

10           SECTION 7. Section 321-11, Hawaii Revised Statutes, is  
11 amended to read as follows:

12           "**§321-11 Subjects of health rules, generally.** The  
13 department pursuant to chapter 91 may adopt rules that it deems  
14 necessary for the public health and safety respecting:

15           (1) Nuisances, foul or noxious odors, gases, vapors,  
16 waters in which mosquitoes breed or may breed, sources  
17 of filth, and causes of sickness or disease, within  
18 the respective districts of the State, and on board  
19 any vessel;

20           (2) Adulteration and misbranding of food or drugs;

21           (3) Location, air space, ventilation, sanitation,  
22 drainage, sewage disposal, and other health conditions



1 of buildings, courts, construction projects,  
2 excavations, pools, watercourses, areas, and alleys;  
3 (4) Privy vaults and cesspools;  
4 (5) Fish and fishing;  
5 (6) Interments and dead bodies;  
6 (7) Disinterments of dead human bodies, including the  
7 exposing, disturbing, or removing of these bodies from  
8 their place of burial, or the opening, removing, or  
9 disturbing after due interment of any receptacle,  
10 coffin, or container holding human remains or a dead  
11 human body or a part thereof and the issuance and  
12 terms of permits for the aforesaid disinterments of  
13 dead human bodies;  
14 (8) Cemeteries and burying grounds;  
15 (9) Laundries, and the laundering, sanitation, and  
16 sterilization of articles including linen and uniforms  
17 used by or in the following businesses and  
18 professions: barber shops, manicure shops, beauty  
19 parlors, electrology shops, restaurants, soda  
20 fountains, hotels, rooming and boarding houses,  
21 bakeries, butcher shops, public bathhouses, midwives,  
22 masseurs, and others in similar calling, public or



1 private hospitals, and canneries and bottling works  
2 where foods or beverages are canned or bottled for  
3 public consumption or sale; provided that nothing in  
4 this chapter shall be construed as authorizing the  
5 prohibiting of laundering, sanitation, and  
6 sterilization by those conducting any of these  
7 businesses or professions where the laundering or  
8 sterilization is done in an efficient and sanitary  
9 manner;

10 (10) Hospitals, freestanding surgical outpatient  
11 facilities, skilled nursing facilities, intermediate  
12 care facilities, adult residential care homes, adult  
13 foster homes, assisted living facilities, special  
14 treatment facilities and programs, home health  
15 agencies, hospices, freestanding birthing facilities,  
16 adult day health centers, independent group  
17 residences, and therapeutic living programs, but  
18 excluding youth shelter facilities unless clinical  
19 treatment of mental, emotional, or physical disease or  
20 handicap is a part of the routine program or  
21 constitutes the main purpose of the facility, as  
22 defined in section 346-16 under "child care



1 institution". For the purpose of this paragraph,  
2 "adult foster home" has the same meaning as provided  
3 in section 321-11.2;

4 (11) Hotels, rooming houses, lodging houses, apartment  
5 houses, tenements, and residences for persons with  
6 developmental disabilities including, but not limited  
7 to, those built under federal funding;

8 (12) Laboratories;

9 (13) Any place or building where noisome or noxious trades  
10 or manufacturers are carried on, or intended to be  
11 carried on;

12 (14) Milk;

13 (15) Poisons and hazardous substances, the latter term  
14 including but not limited to any substance or mixture  
15 of substances which:

16 (A) Is corrosive;

17 (B) Is an irritant;

18 (C) Is a strong sensitizer;

19 (D) Is inflammable; or

20 (E) Generates pressure through decomposition, heat,  
21 or other means,





- 1 if the substance or mixture of substances may cause  
2 substantial personal injury or substantial illness  
3 during or as a proximate result of any customary or  
4 reasonably foreseeable handling or use, including  
5 reasonably foreseeable ingestion by children;
- 6 (16) Pig and duck ranches;
- 7 (17) Places of business, industry, employment, and  
8 commerce, and the processes, materials, tools,  
9 machinery, and methods of work done therein; and  
10 places of public gathering, recreation, or  
11 entertainment;
- 12 (18) Any restaurant, theater, market, stand, shop, store,  
13 factory, building, wagon, vehicle, or place where any  
14 food, drug, or cosmetic is manufactured, compounded,  
15 processed, extracted, prepared, stored, distributed,  
16 sold, offered for sale, or offered for human  
17 consumption or use;
- 18 (19) Foods, drugs, and cosmetics, and the manufacture,  
19 compounding, processing, extracting, preparing,  
20 storing, selling, and offering for sale, consumption,  
21 or use of any food, drug, or cosmetic;
- 22 (20) Devices as defined in section 328-1;



- 1 (21) Sources of ionizing radiation;
- 2 (22) Medical examination, vaccination, revaccination, and  
3 immunization of school children. No child shall be  
4 subjected to medical examination, vaccination,  
5 revaccination, or immunization[~~whose~~] if the child's  
6 parent or guardian objects in writing thereto on any  
7 grounds, including grounds that the requirements are  
8 not in accordance with the religious tenets of an  
9 established church of which the parent or guardian is  
10 a member or adherent, but no objection shall be  
11 recognized when, in the opinion of the department,  
12 there is danger of an epidemic from any communicable  
13 disease;
- 14 (23) Disinsectization of aircraft entering or within the  
15 State as may be necessary to prevent the introduction,  
16 transmission, or spread of disease or the introduction  
17 or spread of any insect or other vector of  
18 significance to health;
- 19 (24) Fumigation, including the process by which substances  
20 emit or liberate gases, fumes, or vapors which may be  
21 used for the destruction or control of insects,  
22 vermin, rodents, or other pests, which, in the opinion



1 of the department, may be lethal, poisonous, noxious,  
2 or dangerous to human life;

3 (25) Ambulances and ambulance equipment;

4 (26) Development, review, approval, or disapproval of  
5 management plans submitted pursuant to the Asbestos  
6 Hazard Emergency Response Act of 1986, Public Law 99-  
7 519; and

8 (27) Development, review, approval, or disapproval of an  
9 accreditation program for specially trained persons  
10 pursuant to the Residential Lead-Based Paint Hazard  
11 Reduction Act of 1992, Public Law 102-550.

12 The department may require any certificates, permits, or  
13 licenses that it may deem necessary to adequately regulate the  
14 conditions or businesses referred to in this section."

15 SECTION 8. Section 325-32, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§325-32 Immunization against infectious diseases.** The  
18 department of health may adopt rules [~~requiring~~] recommending  
19 and governing immunization against typhoid fever, pertussis  
20 (whooping cough), diphtheria, tetanus, poliomyelitis, measles,  
21 mumps, hepatitis B, rubella, haemophilus influenzae type B, and  
22 any other communicable disease, if a suitable immunizing agent



1 is available for the disease and a need for immunization against  
2 it exists within the State. The department may also provide  
3 vaccines and other immunizing agents to private and public  
4 health care providers for administration to the general public."

5 SECTION 9. Section 325-33, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 **"§325-33 Performance of vaccination and immunization.**

8 Vaccinations or immunizations [~~required of~~] recommended for any  
9 person under this chapter shall be performed by duly licensed  
10 physicians or paramedical personnel under their direction,  
11 advanced practice registered nurses, or by authorized  
12 representatives of the department of health. A record of the  
13 immunization shall be maintained by the physician or advanced  
14 practice registered nurse and shall be available to the  
15 department of education for school entry requirements and the  
16 department of health."

17 SECTION 10. Section 325-34, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 **"§325-34 Exemptions.** (a) Section 325-32 shall be  
20 construed not to require the vaccination or immunization of any  
21 person for three months after a duly licensed physician or an  
22 authorized representative of the department of health has signed



1 two copies of a certificate, stating the name and address of the  
2 person and that because of a stated cause the health of the  
3 person would be endangered by the vaccination or immunization,  
4 and has forwarded the original copy of the certificate to the  
5 person or, if the person is a minor or under guardianship, to  
6 the person's parent or guardian[7] and has forwarded the  
7 duplicate copy of the certificate to the department for its  
8 files.

9 (b) No person shall be subjected to vaccination,  
10 revaccination, or immunization[7] who ~~[shall]~~ objects in writing  
11 ~~[object thereto]~~ on any grounds, including the grounds that the  
12 requirements are not in accordance with the religious tenets of  
13 an established church of which the person is a member or  
14 adherent[7] or, if the person is a minor or under guardianship,  
15 whose parent or guardian ~~[shall]~~ objects in writing ~~[object~~  
16 ~~thereto]~~ on any such grounds, but no objection shall be  
17 recognized when, in the opinion of the director of health, there  
18 is danger of an epidemic from any communicable disease."

19 SECTION 11. Section 325-36, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 "**§325-36 Duty of adult, or of parent, guardian, or**  
22 **caregiver.** (a) Every adult person ~~[required]~~ recommended to be



1 immunized, or to do any other act, unless the person is a minor  
2 or incompetent, shall cause the immunization or other act to be  
3 performed[-] unless exempted under section 325-34.

4 (b) If the person is a minor or incompetent, the person's  
5 parent, or guardian having the person's care, custody, and  
6 control, shall cause the immunization or other related act to be  
7 performed[-] unless exempted under section 325-34.

8 (c) If reasonable efforts have been made to obtain consent  
9 from the person's parent or guardian, and consent is not  
10 obtainable because the parent or guardian cannot be located or  
11 contacted, a caregiver with whom the minor or incompetent person  
12 lives, or a non-custodial parent, may cause the immunization or  
13 other related act to be performed[-] unless exempted under  
14 section 325-34."

15 SECTION 12. Section 325-37, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§325-37 Fraud; wilful misrepresentation; failure to**  
18 **comply; penalties.** Any person who by fraud or wilful  
19 misrepresentation circumvents or defeats or attempts to  
20 circumvent or defeat any purpose [~~or provision of any~~] of  
21 sections 325-32 to 325-34 or who, [~~required by any provision of~~]  
22 pursuant to section 325-32, is recommended to be vaccinated or



1 immunized, fails to be so vaccinated or immunized shall be fined  
2 not more than \$25 or imprisoned not more than thirty days, or  
3 both[-] unless exempted under section 325-34."

4 SECTION 13. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 14. This Act shall take effect upon its approval.

7

INTRODUCED BY:

K. O. O.

JAN 09 2008



**Report Title:**

Vaccinations; Exemptions Allowed on Any Grounds

**Description:**

Makes all vaccinations in the State non-compulsory but only recommended unless there is danger of an epidemic from any communicable disease. Allows exemptions from vaccinations on any grounds.

