

# S.B. NO. 1437

JAN 23 2025

## A BILL FOR AN ACT

RELATING TO NON-MEDICAL EXEMPTIONS TO IMMUNIZATION REQUIREMENTS.

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

1       SECTION 1. The legislature finds that school entry  
2 immunization requirements have been shown to be effective in  
3 improving immunization coverage rates. Based on decades of  
4 strong evidence of effectiveness, the United States Department  
5 of Health and Human Services Task Force on Community Preventive  
6 Services recommended the continued implementation of school  
7 immunization requirements as a means of increasing immunization  
8 coverage, thereby reducing disease incidence. When ninety-five  
9 per cent of individuals in a community are immunized, those  
10 persons serve as a protective barrier against the likelihood of  
11 transmission of vaccine-preventable diseases in the community.  
12 This occurrence is referred to as "herd immunity."

13       High immunization rates at schools are especially important  
14 for medically fragile children. Some children have conditions  
15 that affect their immunity, such as illnesses that require  
16 chemotherapy. These children cannot be safely immunized, and,  
17 at the same time, they are less able to fight off illness when  
18 they are infected. They depend on herd immunity for their

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1 health and their lives. In Hawaii for the 2023-2024 school  
2 year, 296 students had a medical exemption from immunization;  
3 they were unable to get immunized due to a medical condition and  
4 relied on herd immunity to attend school safely.

5 The legislature further finds that decreasing immunization  
6 coverage due to non-medical exemptions increases the risk for  
7 vaccine-preventable disease outbreaks that can be fatal to  
8 children. In Hawaii for the 2015-2016 school year, the rate of  
9 non-medical immunization exemption was 2.5 per cent. The rate  
10 of non-medical immunization exemption more than doubled to 5.3  
11 per cent for the 2023-2024 school year. The rate of non-medical  
12 exemptions varied by school with fifty-five of the 382 schools  
13 that reported for school year 2023-2024 having a non-medical  
14 immunization exemption rate greater than ten per cent.

15 The legislature finds that since the health and safety of  
16 Hawaii's keiki are paramount, the State has a compelling  
17 interest in protecting the public against deadly diseases  
18 considering an increasing trend in non-medical immunization  
19 exemptions, while honoring certain non-medical exemptions that  
20 previously have been approved.

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1       Accordingly, the purpose of this Act is to improve the  
2 health and safety of school-aged children by minimizing  
3 exemptions from school immunization requirements.

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

6       "**§302A-1156 Exemptions.** (a) A child ~~[may]~~ shall be  
7 exempted from the required immunizations[+]

8       ~~(1) If]~~ if a licensed physician, physician assistant, or  
9 advanced practice registered nurse certifies that the  
10 physical condition of the child is such that  
11 immunizations would endanger the child's life or  
12 health[~~;-or~~

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

21       (b) Any child attending school who had an approved  
22 religious exemption from required immunizations for the 2024-

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1 2025 school year shall be permitted to remain exempt while  
2 continuing to attend school in Hawaii.

3 (c) This section does not prohibit a pupil who qualifies  
4 for an individualized education action program pursuant to  
5 federal and state law, from accessing any special education and  
6 related services required by their individualized education  
7 program."

8 SECTION 3. Section 321-11, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "**§321-11 Subjects of health rules, generally.** The  
11 department of health pursuant to chapter 91 may adopt rules that  
12 it deems necessary for the public health and safety respecting:

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

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

19 (3) Location, air space, ventilation, sanitation,  
20 drainage, sewage disposal, and other health conditions  
21 of buildings, courts, construction projects,  
22 excavations, pools, watercourses, areas, and

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1           alleys. For purposes of this paragraph, "pool" means  
2           a watertight artificial structure containing a body of  
3           water that does not exchange water with any other body  
4           of water, either naturally or mechanically, and is  
5           used for swimming, diving, recreational bathing, or  
6           therapy by humans;

7           (4) Privy vaults and cesspools;

8           (5) Fish and fishing;

9           (6) Interments and dead bodies;

10          (7) Disinterments of dead human bodies, including the  
11          exposing, disturbing, or removing of these bodies from  
12          their place of burial, or the opening, removing, or  
13          disturbing after due interment of any receptacle,  
14          coffin, or container holding human remains or a dead  
15          human body or a part thereof and the issuance and  
16          terms of permits for the aforesaid disinterments of  
17          dead human bodies;

18          (8) Cemeteries and burying grounds;

19          (9) Laundries, and the laundering, sanitation, and  
20          sterilization of articles including linen and uniforms  
21          used by or in the following businesses and  
22          professions: barber shops, manicure shops, beauty

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1 parlors, electrology shops, restaurants, soda  
2 fountains, hotels, rooming and boarding houses,  
3 bakeries, butcher shops, public bathhouses, midwives,  
4 masseurs, and others in similar calling, public or  
5 private hospitals, and canneries and bottling works  
6 where foods or beverages are canned or bottled for  
7 public consumption or sale; provided that nothing in  
8 this chapter shall be construed as authorizing the  
9 prohibiting of laundering, sanitation, and  
10 sterilization by those conducting any of these  
11 businesses or professions where the laundering or  
12 sterilization is done in an efficient and sanitary  
13 manner;

14 (10) Hospitals, freestanding surgical outpatient  
15 facilities, skilled nursing facilities, intermediate  
16 care facilities, adult residential care homes, adult  
17 foster homes, assisted living facilities, special  
18 treatment facilities and programs, home health  
19 agencies, home care agencies, hospices, freestanding  
20 birthing facilities, adult day health centers,  
21 independent group residences, and therapeutic living  
22 programs, but excluding youth shelter facilities

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1           unless clinical treatment of mental, emotional, or  
2           physical disease or handicap is a part of the routine  
3           program or constitutes the main purpose of the  
4           facility, as defined in section 346-16 under "child  
5           caring institution". For the purpose of this  
6           paragraph, "adult foster home" has the same meaning as  
7           provided in section 321-11.2;

8       (11) Hotels, rooming houses, lodging houses, apartment  
9           houses, tenements, and residences for persons with  
10          developmental disabilities including those built under  
11          federal funding;

12       (12) Laboratories;

13       (13) Any place or building where noisome or noxious trades  
14           or manufacturing is carried on, or intended to be  
15           carried on;

16       (14) Milk;

17       (15) Poisons and hazardous substances, the latter term  
18           including any substance or mixture of substances that:

19           (A) Is corrosive;

20           (B) Is an irritant;

21           (C) Is a strong sensitizer;

22           (D) Is inflammable; or

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(E) Generates pressure through decomposition, heat,

or other means,

if the substance or mixture of substances may cause

substantial personal injury or substantial illness

during or as a proximate result of any customary or

reasonably foreseeable handling or use, including

reasonably foreseeable ingestion by children;

(16) Pig and duck ranches;

(17) Places of business, industry, employment, and

commerce, and the processes, materials, tools,

machinery, and methods of work done therein; and

places of public gathering, recreation, or

entertainment;

(18) Any restaurant, theater, market, stand, shop, store,

factory, building, wagon, vehicle, or place where any

food, drug, or cosmetic is manufactured, compounded,

processed, extracted, prepared, stored, distributed,

sold, offered for sale, or offered for human

consumption or use;

(19) Foods, drugs, and cosmetics, and the manufacture,

compounding, processing, extracting, preparing,



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1 storing, selling, and offering for sale, consumption,  
2 or use of any food, drug, or cosmetic;

3 (20) Device as defined in section 328-1;

4 (21) Sources of ionizing radiation;

5 (22) Medical examination, vaccination, revaccination, and  
6 immunization of school children[. ~~No child shall be~~

7 ~~subjected to medical examination, vaccination,~~

8 ~~revaccination, or immunization, whose parent or~~

9 ~~guardian objects in writing thereto on grounds that~~

10 ~~the requirements are not in accordance with the~~

11 ~~religious tenets of an established church of which the~~

12 ~~parent or guardian is a member or adherent, but no~~

13 ~~objection shall be recognized when, in the opinion of~~

14 ~~the department, there is danger of an epidemic from~~

15 ~~any communicable disease];~~

16 (23) Disinsectization of aircraft entering or within the

17 State as may be necessary to prevent the introduction,

18 transmission, or spread of disease or the introduction

19 or spread of any insect or other vector of

20 significance to health;

21 (24) Fumigation, including the process by which substances

22 emit or liberate gases, fumes, or vapors that may be

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1           used for the destruction or control of insects,  
2           vermin, rodents, or other pests, which, in the opinion  
3           of the department, may be lethal, poisonous, noxious,  
4           or dangerous to human life;

5           (25) Ambulances and ambulance equipment;

6           (26) Development, review, approval, or disapproval of  
7           management plans submitted pursuant to the Asbestos  
8           Hazard Emergency Response Act of 1986, Public Law 99-  
9           519; and

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

14          The department of health may require any certificates,  
15          permits, or licenses that it may deem necessary to adequately  
16          regulate the conditions or businesses referred to in this  
17          section."

18          SECTION 4. Section 325-34, Hawaii Revised Statutes, is  
19          amended to read as follows:

20          "**§325-34 Exemptions.** Section 325-32 shall be construed  
21          not to require the vaccination or immunization of any person for  
22          three months after a duly licensed physician, physician

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

10       ~~[No]~~ Except as required under section 302A-1154, no person  
11 shall be subjected to vaccination, revaccination, or  
12 immunization, who shall in writing object thereto on the grounds  
13 that the requirements are not in accordance with the religious  
14 tenets of an established church of which the person is a member  
15 or adherent, or, if the person is a minor or under guardianship,  
16 whose parent or guardian shall in writing object thereto on such  
17 grounds, but no objection shall be recognized when, in the  
18 opinion of the director of health, there is danger of an  
19 epidemic from any communicable disease."

20       SECTION 5. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: 

4

BY REQUEST

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**Report Title:**

Immunizations; Non-Medical Exemptions; Repeal

**Description:**

Repeals the non-medical exemption from immunization requirements.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

## JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO NON-MEDICAL EXEMPTIONS TO IMMUNIZATION REQUIREMENTS.

PURPOSE: To repeal statutory authorization for non-medical exemptions to immunization requirements, and preserve exemptions already approved.

MEANS: Amend sections 302A-1156, 321-11, and 325-34, Hawaii Revised Statutes.

JUSTIFICATION: Routine childhood immunizations help protect the health of children and create safer environments for childcare and learning. When ninety-five per cent of individuals in a community are immunized, enough people have immunity to the most infectious vaccine-preventable diseases to prevent an outbreak, which protects those who, for medical reasons, are unable to get vaccinated or develop an immune response to vaccination.

The rate of non-medical immunization exemptions in Hawaii increased from 2.5 percent for the 2015-2016 school year to 5.3 percent for the 2023-2024 school year, more than doubling. The rate of non-medical exemptions varied by school with fifty-five of the 382 schools that reported for 2023-2024 school year having a non-medical immunization exemption rate exceeding ten percent.

This bill is needed to respond to the rising trend of non-medical exemptions from school immunization requirements that is increasing the risk of an outbreak. Due to the morbidity and mortality of vaccine-preventable diseases among children, the State has a compelling interest in repealing exemptions for which there are no objective medical bases and thereby increasing

protective factors for individual children and the community at large. Maintaining high immunization rates among children is crucial for protecting the safety and health of the children, their families, and the community.

Impact on the public: Removal of non-medical exemptions for immunizations would increase vaccination rates for Hawaii's school-age children.

Elimination of the non-medical immunization exemption will reduce the risk of infections, secondary infections in the families of students, and the spread of communicable diseases in the wider social and occupational community at large, including in care facilities and other congregate centers where close contact can increase the spread of communicable diseases.

Impact on the department and other agencies: Elimination of non-medical exemptions will streamline immunization screening and reporting processes to the Department and improve public health.

The Department of Education will likely experience diminished administrative burden, and campuses will be safer from vaccine-preventable diseases.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	HTH 131.
OTHER AFFECTED AGENCIES:	Department of Education.
EFFECTIVE DATE:	Upon approval.