

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 290

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO IMMUNIZATIONS; AMENDING SECTION 39-1118, IDAHO CODE, TO REVISE  
2 PROVISIONS REGARDING IMMUNIZATION FOR LICENSED DAYCARE FACILITIES;  
3 AMENDING SECTION 39-4801, IDAHO CODE, TO REVISE PROVISIONS REGARDING  
4 IMMUNIZATION FOR IDAHO SCHOOLS AND TO PROVIDE EXEMPTIONS; REPEALING  
5 SECTION 39-4802, IDAHO CODE, RELATING TO EXEMPTIONS; AMENDING SECTION  
6 39-4803, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SEC-  
7 TION 39-4804, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; REPEALING  
8 SECTION 39-4805, IDAHO CODE, RELATING TO THE IDAHO CHILDHOOD IMMUNIZA-  
9 TION POLICY COMMISSION; PROVIDING THAT CERTAIN ADMINISTRATIVE RULES  
10 CONTAINED IN IDAPA 16.02.11 SHALL BE NULL, VOID, AND OF NO FORCE AND  
11 EFFECT; PROVIDING THAT CERTAIN ADMINISTRATIVE RULES CONTAINED IN IDAPA  
12 16.02.15 SHALL BE NULL, VOID, AND OF NO FORCE AND EFFECT; AND DECLARING  
13 AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
14

15 Be It Enacted by the Legislature of the State of Idaho:

16 SECTION 1. That Section 39-1118, Idaho Code, be, and the same is hereby  
17 amended to read as follows:

18 39-1118. IMMUNIZATION ~~REQUIRED~~.

19 (1) (a) Within fourteen (14) days of a child's initial attendance at any  
20 licensed daycare facility, the parent or guardian shall provide an im-  
21 munization record to the operator of the daycare facility regarding the  
22 child's immunity to certain childhood diseases. This record, signed by  
23 a physician or his representative or another licensed health care pro-  
24 fessional, shall verify that the child has received or is in the process  
25 of receiving immunizations as specified by ~~the board~~ this section; or  
26 can effectively demonstrate, through verification in a form approved by  
27 the department, immunity gained through prior contraction of the dis-  
28 ease. Documentation shall be retained by the licensed daycare facility  
29 for each child as long as the child attends the daycare facility, plus  
30 one (1) year after last attendance.

31 (b) ~~Immunizations required and the manner and frequency of their ad-~~  
32 ~~ministration shall be as prescribed by the board and shall conform to~~  
33 ~~recognized standard medical practices in the state. The board shall~~  
34 ~~promulgate appropriate rules for the enforcement of the required immu-~~  
35 ~~nization program and specify reporting requirements of daycare facil-~~  
36 ~~ities, pursuant to the provisions of chapter 52, title 67, Idaho Code.~~  
37 The age appropriate immunizations required pursuant to this paragraph  
38 shall conform to recognized standard medical practices in the state:

39 (i) Diphtheria, Tetanus and A-Cellular Pertussis (DTaP) vaccine;

40 (ii) Polio vaccine;

41 (iii) Measles, Mumps, and Rubella (MMR) vaccine;

42 (iv) Haemophilus Influenza Type B (HIB) vaccine;

- 1           (v) Hepatitis B vaccine;  
 2           (vi) Varicella vaccine;  
 3           (vii) Pneumococcal vaccine;  
 4           (viii) Rotavirus vaccine; and  
 5           (ix) Hepatitis A vaccine.

6           (2) Any minor child whose parent or guardian has submitted to officials  
 7 of a licensed daycare facility a certificate signed by a physician licensed  
 8 by the state board of medicine stating that the physical condition of the  
 9 child is such that all or any of the ~~required~~ immunizations would endanger  
 10 the life or health of the child shall be exempt from the provisions of this  
 11 section. Any minor child whose parent or guardian has submitted a signed  
 12 statement to officials of the daycare facility stating their objections on  
 13 religious or other grounds shall be exempt from the provisions of this sec-  
 14 tion.

15           (3) Licensed daycare facilities shall describe the exemptions provided  
 16 in subsection (2) of this section and shall provide a citation to this code  
 17 section in any communication to parents or guardians regarding immuniza-  
 18 tion.

19           (4) A child not meeting the conditions of this section shall be excluded  
 20 by the licensed daycare facility operator until the child is in compliance.  
 21 A child exempt from the provisions of this section pursuant to subsection (2)  
 22 of this section may be excluded by the department in the event of a disease  
 23 outbreak.

24           (5) (a) The department may randomly select and visit licensed daycare  
 25 facilities to evaluate compliance with this section. The department  
 26 shall inform licensed daycare facilities at least thirty (30) days in  
 27 advance of such visits.

28           (b) The department shall record violations in writing and provide a  
 29 copy to the licensed daycare operator. Licensed daycare operators  
 30 shall have thirty (30) days following an inspection to state that the  
 31 specified violations have been corrected. Failure to respond shall  
 32 result in notification to the licensed daycare operator's licensing  
 33 authority.

34           SECTION 2. That Section 39-4801, Idaho Code, be, and the same is hereby  
 35 amended to read as follows:

36           39-4801. ~~IMMUNIZATION REQUIRED~~ -- EXEMPTIONS. (1) Except as provided  
 37 in ~~section 39-4802, Idaho Code~~ subsections (5) and (6) of this section, any  
 38 child in Idaho of school age may attend preschool and kindergarten through  
 39 grade twelve (12) of any public, private, or parochial school operating in  
 40 this state if otherwise eligible, provided that, upon admission, the parent  
 41 or guardian shall provide an immunization record to the school authorities  
 42 regarding the child's immunity to certain childhood diseases. This record,  
 43 signed by a physician, the physician's representative, or another licensed  
 44 health care professional, shall verify that such child has received or is  
 45 in the process of receiving immunizations as specified by ~~the state board of~~  
 46 ~~health and welfare~~ this section or can effectively demonstrate, through ver-  
 47 ification in a form approved by the department of health and welfare, immu-  
 48 nity gained through prior contraction of the disease.

1           ~~(2) Immunizations required and the manner and frequency of their ad-~~  
 2 ~~ministration shall be as prescribed by the state board of health and welfare~~  
 3 ~~and shall conform to recognized standard medical practices in the state. The~~  
 4 ~~state board of health and welfare, in cooperation with the state board of ed-~~  
 5 ~~ucation and the Idaho school boards association, shall promulgate appropri-~~  
 6 ~~ate rules for the enforcement of the required immunization program and spec-~~  
 7 ~~ify reporting requirements of schools, pursuant to the provisions of chapter~~  
 8 ~~52, title 67, Idaho Code. The manner and frequency of administration of age~~  
 9 ~~appropriate immunizations pursuant to this subsection shall conform to rec-~~  
 10 ~~ognized standard medical practices in the state:~~

11           (a) All children require the following:

12               (i) Diphtheria, Tetanus and A-Cellular Pertussis (DTaP) vaccine,  
 13 five (5) doses;

14               (ii) Hepatitis A vaccine, two (2) doses;

15               (iii) Hepatitis B vaccine, three (3) doses;

16               (iv) Measles, Mumps, and Rubella (MMR) vaccine, two (2) doses;

17               (v) Polio vaccine, four (4) doses; and

18               (vi) Varicella vaccine, two (2) doses.

19           (b) In addition to the criteria listed in paragraph (a) of this subsec-  
 20 tion, the following must be met for admission into the seventh grade:

21               (i) Diphtheria, Tetanus and A-Cellular Pertussis (DTaP) Booster,  
 22 one (1) dose; and

23               (ii) Meningococcal vaccine, one (1) dose.

24           (c) In addition to the criteria listed in paragraphs (a) and (b) of this  
 25 subsection, prior to admission into the twelfth grade, students who  
 26 received their first dose of meningococcal vaccine before sixteen (16)  
 27 years of age must have two (2) doses of meningococcal vaccine, and stu-  
 28 dents who received their first dose of meningococcal vaccine at sixteen  
 29 (16) years age of older, or those who have never received a dose, must  
 30 have one (1) dose of meningococcal vaccine.

31           (3) A student not meeting the conditions of this section shall be ex-  
 32 cluded by school authorities, and such students may not attend any Idaho pub-  
 33 lic, private, or parochial school until the student is in compliance. A stu-  
 34 dent exempted under subsections (5) or (6) of this section may be excluded by  
 35 the department in the event of a disease outbreak.

36           (4) School authorities shall submit a report of the school's immuniza-  
 37 tion status by grade to the department on or before November 1 each year, in-  
 38 cluding the following information:

39               (a) Inclusive dates or reporting period;

40               (b) Name and address of school, school district, and county;

41               (c) Grade being reported and total number of students enrolled in the  
 42 grade;

43               (d) Name and title of the person completing the report form;

44               (e) Number of students who meet all of the immunizations criteria;

45               (f) Number of students who do not meet the specified number of immuniza-  
 46 tions listed by specific immunization type;

47               (g) Number of students who do not meet the immunization criteria but are  
 48 in the process of receiving the immunizations; and

49               (h) Number of students who claimed exemption to the immunizations.

1       (5) Any minor child whose parent or guardian has submitted to school of-  
 2 officials a certificate signed by a physician licensed by the state board of  
 3 medicine stating that the physical condition of the child is such that all or  
 4 any of the immunizations would endanger the life or health of the child shall  
 5 be exempt from the provisions of this chapter.

6       (6) Any minor child whose parent or guardian has submitted a signed  
 7 statement to school officials stating their objections on religious or other  
 8 grounds shall be exempt from the provisions of this chapter.

9       (7) School officials shall describe the exemptions provided in this  
 10 section and provide a citation to this section in any communication to par-  
 11 ents and guardians regarding immunization.

12       (8) Any student of majority age who submits a signed statement to school  
 13 officials stating the student's objections on religious or other grounds  
 14 shall be exempt from any or all immunization criteria at every public, pri-  
 15 vate, or parochial school in this state, including postsecondary, trade,  
 16 college, university, or any other institute of primary, secondary, or higher  
 17 learning.

18       SECTION 3. That Section [39-4802](#), Idaho Code, be, and the same is hereby  
 19 repealed.

20       SECTION 4. That Section 39-4803, Idaho Code, be, and the same is hereby  
 21 amended to read as follows:

22       39-4803. IMMUNIZATION REGISTRY. (1) The department of health and wel-  
 23 fare shall provide for the establishment of a voluntary registry of the immu-  
 24 nization status of Idaho children against childhood diseases. The registry  
 25 shall be maintained and its data disclosed as set out herein to further the  
 26 following purposes:

27       (a) To make immunizations readily available to every Idaho citizen that  
 28 desires to have their child immunized;

29       (b) To increase the voluntary immunization rate in Idaho to the maximum  
 30 extent possible without mandating such immunizations;

31       (c) To recognize and respect the rights of parents and guardians to make  
 32 health care decisions for their children; and

33       (d) To provide for timely reminders to parents of children in the reg-  
 34 istry.

35       (2) The name of a child and information relating to the immunization  
 36 status of that child shall be collected and included in the registry unless  
 37 a parent, guardian or other person legally responsible for the care of the  
 38 child chooses not to have the child included in the registry upon a specified  
 39 written statement. Such statement may not be part of a general authorization  
 40 or release. The registry shall contain the following information for each  
 41 child:

42       (a) The child's name, address and birth date;

43       (b) The name and address of each parent of the child;

44       (c) The month, day, year and type of each immunization that has been ad-  
 45 ministered to the child;

46       (d) The name, address and phone number of each provider that has admin-  
 47 istered an immunization to the child;

1 (e) If requested by a parent or guardian, any statement made pursuant to  
2 subsection (4) of this section; and

3 (f) Other information as authorized or requested by a parent or  
4 guardian.

5 (3) The department of health and welfare shall only disclose informa-  
6 tion relating to an individual child in the registry to the following upon a  
7 specific request:

8 (a) Employees of the health district in which the child resides or seeks  
9 medical services;

10 (b) Health records staff of the school or school district in which the  
11 child is enrolled;

12 (c) The operator of a licensed daycare facility in which the child is  
13 enrolled;

14 (d) Persons who are legally responsible for the long-term care of the  
15 child, including operators of licensed ICF/ID's and residential or as-  
16 sisted living facilities, adoptive and foster parents and a guardian  
17 appointed pursuant to chapter 5, title 15, Idaho Code;

18 (e) Any health care provider rendering treatment to the child, and the  
19 provider's agents;

20 (f) Any person possessing a lawful release, properly executed by the  
21 child's parent or guardian;

22 (g) A parent of the child;

23 (h) Any hospital where the child is receiving care; or

24 (i) The Idaho health data exchange.

25 (4) A parent or guardian of the child shall have free and open access to  
26 all information in the registry that relates to their child or themselves.  
27 Upon the written request of a parent or guardian, the department of health  
28 and welfare shall:

29 (a) Cause all information relating to the child to be removed from the  
30 registry;

31 (b) Include in the registry the statement of a physician or parent pur-  
32 suant to section ~~39-4802(2)~~ 39-4801(5) or 39-1118(2), Idaho Code.

33 (5) All information contained in the registry or disclosed from it is  
34 confidential and may not be sold and may only be disclosed as specifically  
35 authorized in this section. A person or entity to whom information is dis-  
36 closed from the registry may not thereafter disclose it to others except in  
37 accordance with state and federal laws applicable to the use of protected  
38 health information. Any person who discloses or authorizes disclosure of  
39 any information contained in the registry, except as authorized in this sec-  
40 tion, is guilty of a misdemeanor and is liable for civil damages in the amount  
41 of one hundred dollars (\$100) for each violation.

42 SECTION 5. That Section 39-4804, Idaho Code, be, and the same is hereby  
43 amended to read as follows:

44 39-4804. NOTIFICATION TO PARENT OR GUARDIAN. (1) Before an immuniza-  
45 tion is administered to any child in this state, the parent or guardian of the  
46 child shall be notified that:

47 (a) Immunizations are not mandatory and may be refused on religious or  
48 other grounds;

49 (b) Participation in the immunization registry is voluntary;

1 (c) The parent or guardian is entitled to an accurate explanation of the  
2 complications known to follow such immunization.

3 (2) At the time information is initially collected regarding any child  
4 for entry into the registry created pursuant to this chapter, the parent or  
5 guardian shall be notified that:

6 (a) They have the right under Idaho law to submit a statement pursuant  
7 to the provisions of sections 39-1118 and ~~39-4802~~ 39-4801(5) or (6),  
8 Idaho Code, which exempts them from any requirement to have information  
9 regarding the child entered into the registry;

10 (b) At any time they have the right to remove any information from the  
11 registry regarding the child; and

12 (c) Immunizations are not mandatory and may be refused on religious or  
13 other grounds.

14 (3) The decision of a parent or guardian to:

15 (a) Submit a statement pursuant to the provisions of either section  
16 39-1118(2) or ~~39-4802(2)~~ 39-4801(5) or (6), Idaho Code;

17 (b) Remove any information regarding the child from the registry pur-  
18 suant to the provisions of section 39-4803(4), Idaho Code; or

19 (c) Refuse the immunization on religious or other grounds;

20 shall not be used in any manner against the interests of the parent or  
21 guardian in any administrative, civil or criminal action.

22 SECTION 6. That Section 39-4805, Idaho Code, be, and the same is hereby  
23 repealed.

24 SECTION 7. The rules contained in IDAPA 16.02.11, Idaho Department of  
25 Health and Welfare, relating to Immunization Requirements for Licensed Day-  
26 care Facility Attendees, shall be null, void, and of no force and effect on  
27 and after July 1, 2025.

28 SECTION 8. The rules contained in IDAPA 16.02.15, Idaho Department of  
29 Health and Welfare, relating to Immunization Requirements for Idaho School  
30 Children, shall be null, void, and of no force and effect on and after July 1,  
31 2025.

32 SECTION 9. An emergency existing therefor, which emergency is hereby  
33 declared to exist, this act shall be in full force and effect on and after  
34 July 1, 2025.