

HOUSE BILL NO. 128

INTRODUCED BY SCHYE, METCALF

BY REQUEST OF THE DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

IN THE HOUSE

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| January 8, 1983 | Introduced and referred to Committee on Human Services. |
| January 20, 1983 | Committee recommend bill do pass. Report adopted. Bill printed and placed on members' desks. |
| January 24, 1983 | Second reading, do pass. |
| January 25, 1983 | Considered correctly engrossed. |
| January 26, 1983 | Third reading, passed. Transmitted to Senate. |

IN THE SENATE

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| January 27, 1983 | Introduced and referred to Committee on Public Health, Welfare and Safety. |
| March 4, 1983 | Committee recommend bill be concurred in. Report adopted. |
| March 7, 1983 | Second reading, concurred in. |
| March 9, 1983 | Third reading, concurred in. Ayes, 50; Noes, 0. |

IN THE HOUSE

March 9, 1983

Returned to House.

March 10, 1983

Sent to enrolling.

**Reported correctly
enrolled.**

House BILL NO. *128*
 INTRODUCED BY *Serge Nuttall*
 BY REQUEST OF THE DEPARTMENT OF
 HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE
 SCHOOL IMMUNIZATION REQUIREMENTS MUST BE MET AT THE TIME A
 PERSON COMMENCES SCHOOL ATTENDANCE RATHER THAN THE TIME OF
 ENROLLMENT; AMENDING SECTIONS 20-5-403 THROUGH 20-5-405 AND
 20-5-408, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 20-5-403, MCA, is amended to read:

"20-5-403. Immunization required -- grace period for
 transfers. (1) ~~A The governing authority may not enroll any~~
~~person--as-a-pupil--in of any school may not allow any person~~
~~to commence attendance as a pupil~~ unless the person:

(a) has been immunized against diphtheria, pertussis,
 tetanus, poliomyelitis, rubella, and measles (rubeola) in
 the manner and with immunizing agents approved by the
 department, except that pertussis vaccination is not
 required for a person 7 years of age or older;

(b) qualifies for conditional enrollment attendance;

(c) files for an exemption; or

(d) is a pupil transferring from another school

district, in which case the provisions of subsection (2)
 apply.

(2) A person who transfers from one school district to
 another has 30 calendar days after commencement of
 attendance at the school to which he or she transfers to
 either complete immunization as specified in subsection
 (1)(a), commence immunization in the manner required by
 20-5-404, or file for an exemption. If none of the foregoing
 actions is taken within 30 days, the transfer pupil is
 prohibited from further attendance until such action is
 taken."

Section 2. Section 20-5-404, MCA, is amended to read:

"20-5-404. Conditional enrollment attendance. ~~A The~~
~~governing authority of a school may allow the commencement~~
~~of attendance in school by a~~ person who has not been
 immunized against each disease listed in 20-5-403 ~~may be~~
~~enrolled by the governing authority on condition that he if~~
~~that person~~ has received one or more doses of polio, measles
 (rubeola), rubella, diphtheria, pertussis, and tetanus
 vaccine, except that pertussis vaccine is not required for a
 person 7 years of age or older."

Section 3. Section 20-5-405, MCA, is amended to read:

"20-5-405. Personal, religious, or medical exemption.
 (1) When a parent, guardian, or adult who has the
 responsibility for the care and custody of a minor seeking

1 ~~enrollment to attend school~~, or the person seeking
 2 ~~enrollment to attend school~~, if an adult, signs and files
 3 with the governing authority a written statement on a form
 4 prescribed by the department stating that immunization is
 5 contrary to the personal or religious beliefs of the signer,
 6 immunization of the person seeking ~~enrollment to attend~~
 7 ~~school~~ may not be required prior to ~~enrollment commencement~~
 8 ~~of attendance~~ in any school. The statement must be
 9 maintained as part of the person's immunization records.

10 (2) When a parent, guardian, or adult who has the
 11 responsibility for the care and custody of a minor seeking
 12 ~~enrollment to attend school~~, or the person seeking
 13 ~~enrollment to attend school~~, if an adult, files with the
 14 governing authority a written statement signed by a
 15 physician licensed to practice medicine in any jurisdiction
 16 of the United States or Canada stating that the physical
 17 condition of the person seeking ~~enrollment to attend school~~
 18 or medical circumstances relating to him indicate that some
 19 or all of the required immunizations are not considered safe
 20 and indicating the specific nature and probable duration of
 21 the medical condition or circumstances which contraindicate
 22 immunization, he is exempt from the requirements of this
 23 part to the extent indicated by the physician's statement.
 24 The statement must be maintained as part of the person's
 25 immunization records.

1 (3) Whenever there is good cause to believe that a
 2 person for whom an exemption has been filed under this
 3 section has a disease or has been exposed to a disease
 4 listed in 20-5-403 or will as the result of school
 5 attendance be exposed to such disease, the person may be
 6 excluded from the school by the local health officer or the
 7 department until the excluding authority is satisfied that
 8 the person no longer risks contracting or transmitting that
 9 disease. The exclusion period may not exceed 30 calendar
 10 days."

11 Section 4. Section 20-5-408, MCA, is amended to read:
 12 "20-5-408. Enforcement. (1) The governing authority of
 13 any school shall prohibit from further attendance any pupil
 14 ~~enrolled~~ allowed to attend conditionally who has failed to
 15 obtain the immunizations required by 20-5-403(1) within time
 16 periods established by the department until that pupil has
 17 been immunized as required by the department or unless that
 18 pupil has been exempted under 20-5-405.

19 (2) Each governing authority shall file a written
 20 report on the immunization status of all pupils under its
 21 jurisdiction with the department and the local health
 22 department at times and on forms prescribed by the
 23 department.

24 (3) The local and state health departments shall have
 25 access to all information relating to immunization of any

1 pupil in any school."

2 NEW SECTION. Section 5. Saving clause. This act does
3 not affect rights and duties that matured, penalties that
4 were incurred, or proceedings that were begun before the
5 effective date of this act.

6 NEW SECTION. Section 6. Severability. If a part of
7 this act is invalid, all valid parts that are severable from
8 the invalid part remain in effect. If a part of this act is
9 invalid in one or more of its applications, the part remains
10 in effect in all valid applications that are severable from
11 the invalid applications.

12 NEW SECTION. Section 7. Effective date. This act is
13 effective July 1, 1983.

-End-

Approved by Comm. On Human Services

1 *House* BILL NO. *128*
 2 INTRODUCED BY *Sen. Nuttall*
 3 BY REQUEST OF THE DEPARTMENT OF
 4 HEALTH AND ENVIRONMENTAL SCIENCES
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE
 7 SCHOOL IMMUNIZATION REQUIREMENTS MUST BE MET AT THE TIME A
 8 PERSON COMMENCES SCHOOL ATTENDANCE RATHER THAN THE TIME OF
 9 ENROLLMENT; AMENDING SECTIONS 20-5-403 THROUGH 20-5-405 AND
 10 20-5-408, MCA; AND PROVIDING AN EFFECTIVE DATE."
 11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 20-5-403, MCA, is amended to read:
 14 "20-5-403. Immunization required -- grace period for
 15 transfers. (1) ~~A~~ The governing authority may not enroll any
 16 ~~person as a pupil in~~ of any school may not allow any person
 17 to commence attendance as a pupil unless the person:

18 (a) has been immunized against diphtheria, pertussis,
 19 tetanus, poliomyelitis, rubella, and measles (rubeola) in
 20 the manner and with immunizing agents approved by the
 21 department, except that pertussis vaccination is not
 22 required for a person 7 years of age or older;

23 (b) qualifies for conditional enrollment attendance;

24 (c) files for an exemption; or

25 (d) is a pupil transferring from another school

1 district, in which case the provisions of subsection (2)
 2 apply.

3 (2) A person who transfers from one school district to
 4 another has 30 calendar days after commencement of
 5 attendance at the school to which he or she transfers to
 6 either complete immunization as specified in subsection
 7 (1)(a), commence immunization in the manner required by
 8 20-5-404, or file for an exemption. If none of the foregoing
 9 actions is taken within 30 days, the transfer pupil is
 10 prohibited from further attendance until such action is
 11 taken."

12 Section 2. Section 20-5-404, MCA, is amended to read:
 13 "20-5-404. Conditional enrollment attendance. A The
 14 governing authority of a school may allow the commencement
 15 of attendance in school by a person who has not been
 16 immunized against each disease listed in 20-5-403 may be
 17 enrolled by the governing authority on condition that he if
 18 that person has received one or more doses of polio, measles
 19 (rubeola), rubella, diphtheria, pertussis, and tetanus
 20 vaccine, except that pertussis vaccine is not required for a
 21 person 7 years of age or older."

22 Section 3. Section 20-5-405, MCA, is amended to read:
 23 "20-5-405. Personal, religious, or medical exemption.
 24 (1) When a parent, guardian, or adult who has the
 25 responsibility for the care and custody of a minor seeking

1 enrollment to attend school, or the person seeking
 2 enrollment to attend school, if an adult, signs and files
 3 with the governing authority a written statement on a form
 4 prescribed by the department stating that immunization is
 5 contrary to the personal or religious beliefs of the signer,
 6 immunization of the person seeking enrollment to attend
 7 school may not be required prior to enrollment commencement
 8 of attendance in any school. The statement must be
 9 maintained as part of the person's immunization records.

10 (2) When a parent, guardian, or adult who has the
 11 responsibility for the care and custody of a minor seeking
 12 enrollment to attend school, or the person seeking
 13 enrollment to attend school, if an adult, files with the
 14 governing authority a written statement signed by a
 15 physician licensed to practice medicine in any jurisdiction
 16 of the United States or Canada stating that the physical
 17 condition of the person seeking enrollment to attend school
 18 or medical circumstances relating to him indicate that some
 19 or all of the required immunizations are not considered safe
 20 and indicating the specific nature and probable duration of
 21 the medical condition or circumstances which contraindicate
 22 immunization, he is exempt from the requirements of this
 23 part to the extent indicated by the physician's statement.
 24 The statement must be maintained as part of the person's
 25 immunization records.

1 (3) Whenever there is good cause to believe that a
 2 person for whom an exemption has been filed under this
 3 section has a disease or has been exposed to a disease
 4 listed in 20-5-403 or will as the result of school
 5 attendance be exposed to such disease, the person may be
 6 excluded from the school by the local health officer or the
 7 department until the excluding authority is satisfied that
 8 the person no longer risks contracting or transmitting that
 9 disease. The exclusion period may not exceed 30 calendar
 10 days."

11 Section 4. Section 20-5-408, MCA, is amended to read:
 12 "20-5-408. Enforcement. (1) The governing authority of
 13 any school shall prohibit from further attendance any pupil
 14 enrolled allowed to attend conditionally who has failed to
 15 obtain the immunizations required by 20-5-403(1) within time
 16 periods established by the department until that pupil has
 17 been immunized as required by the department or unless that
 18 pupil has been exempted under 20-5-405.

19 (2) Each governing authority shall file a written
 20 report on the immunization status of all pupils under its
 21 jurisdiction with the department and the local health
 22 department at times and on forms prescribed by the
 23 department.

24 (3) The local and state health departments shall have
 25 access to all information relating to immunization of any

1 pupil in any school."

2 NEW SECTION. Section 5. Saving clause. This act does
3 not affect rights and duties that matured, penalties that
4 were incurred, or proceedings that were begun before the
5 effective date of this act.

6 NEW SECTION. Section 6. Severability. If a part of
7 this act is invalid, all valid parts that are severable from
8 the invalid part remain in effect. If a part of this act is
9 invalid in one or more of its applications, the part remains
10 in effect in all valid applications that are severable from
11 the invalid applications.

12 NEW SECTION. Section 7. Effective date. This act is
13 effective July 1, 1983.

-End-

HOUSE BILL NO. 127

INTRODUCED BY NEUMAN, SWITZER, ADDY, SAUNDERS, LEE,

HOLLIDAY, THOFT, ELLERD, VINGER, GRAHAM

BY REQUEST OF THE DEPARTMENT OF LIVESTOCK

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE PERIOD OF TIME IN WHICH A PERSON TAKING POSSESSION OF TRESPASSING LIVESTOCK MUST GIVE NOTICE TO THE OWNER; ~~DELETING A REQUIREMENT THAT NOTICE BE POSTED WHERE THE ANIMAL WAS TAKEN~~; AMENDING SECTION 81-4-217, MCA."

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

Section 1. Section 81-4-217, MCA, is amended to read:

"81-4-217. Retention of trespassing stock. (1) If an animal breaks into an enclosure surrounded by a legal fence or is wrongfully on the premises of another, the owner or occupant of the enclosure or premises may take into his possession the trespassing animal and keep the animal until all damages, together with reasonable charges for keeping and feeding the animal, are paid. The person who takes the animal into his possession shall, within 72 ~~24~~ hours after he takes possession, give written notice to the owner or person in charge of the animal, stating that he has taken the animal. The notice shall also give the date of the taking, the description of the animal taken, including marks

and brands, if any, the amount of damages claimed, the charge per head per day for caring for and feeding the animal, and the description, either by legal subdivisions or other general description, of the location of the premises on which the animal is held. ~~in all cases a copy of the notice shall also be posted at a point where the animal was taken.~~

(2) The notice shall be given to the owner or person in charge only when the owner or person in charge of the animal is known to the person taking the animal and resides within 25 miles of the premises on which the animal was taken. If the owner or person in charge of the animal resides more than 25 miles from the place of the taking, the notice shall be mailed to him. In this case or if the owner is unknown, a similar notice shall be mailed to the department of livestock and the sheriff of the county in which the animal has been taken. On receipt of the notice, the sheriff shall post a copy of the notice at the courthouse and shall send by certified mail a copy of it to the owner of the stock, if known to him. If unknown to him, the sheriff shall send a copy of the notice to the nearest state livestock inspector.

(3) If the parties within 5 days thereafter do not agree to the amount of damages, the claimant must within 10 days thereafter institute a civil action to collect his

1 claim in a court of competent jurisdiction. Pending the
2 outcome of the suit, the person taking the stock may, at the
3 expense of the owner, retain a sufficient number of animals
4 to cover the amount of damages claimed by him. The defendant
5 may, after the institution of the action, on filing a bond
6 executed by two or more sureties and approved by the court
7 in double the sum sued for, conditioned upon the payment to
8 the plaintiff of all sums, including costs that may be
9 recovered by the plaintiff, have all livestock returned to
10 him. The claimant is liable to the owner for any loss or
11 injury to the stock occurring through his fault or neglect.
12 If the claimant fails to recover in the action a sum equal
13 to that offered him by the owner of the stock, the claimant
14 bears the expense of keeping and feeding the stock while in
15 his possession.

16 (4) A person who takes or rescues an animal from the
17 possession of the person taking the animal, without his
18 consent, is guilty of a misdemeanor and shall be fined not
19 less than \$100 or more than \$500."

-End-

HOUSE BILL NO. 128

INTRODUCED BY SCHYE, METCALF

BY REQUEST OF THE DEPARTMENT OF

HEALTH AND ENVIRONMENTAL SCIENCES

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