

# SENATE . . . . . No. 2362

## The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act establishing the Massachusetts Childhood Vaccine Program.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 118H the  
2 following chapter:-

3 Chapter 118I

4 Childhood Vaccine Program

5 Section 1. As used in this chapter the following words shall, unless the context clearly  
6 requires otherwise, have the following meanings:

7 "Children", individuals less than 19 years of age.

8 "Estimated vaccine cost", the estimated cost over the course of a fiscal year for the  
9 purchase, storage and distribution of vaccines for all children in the commonwealth.

10 "Routine childhood immunizations", immunizations for children until their nineteenth  
11 birthday including, but not limited to: (1) the immunizations recommended by the federal  
12 Vaccines for Children Program; and (2) any immunizations recommended by the Advisory

13 Committee on Immunization Practices of the United States Department of Health and Human  
14 Services.

15 “Surcharge payors”, those entities defined as surcharge payors under section 34 of  
16 chapter 118G, whose assessment may be collected in a manner consistent with said chapter  
17 118G.

18 “Total non-federal program cost”, the estimated annual cost of vaccines needed for  
19 routine childhood immunizations for children covered by surcharge payors in the commonwealth  
20 less the amount of federal revenue available to the commonwealth for purchase, storage,  
21 distribution and administration of such vaccines.

22 Section 2. There shall be established in the commonwealth a separate trust fund to be  
23 known as the Vaccine Purchase Trust Fund to support a universal purchase system for childhood  
24 vaccines in the commonwealth. The fund shall be expended to cover the costs to purchase, store  
25 and distribute vaccines for routine childhood immunizations and to administer the fund and the  
26 immunization registry, established under section 24M of chapter 111. The fund shall consist of  
27 all monies paid to the commonwealth under section 4 and any interest earnings on such monies.  
28 The fund shall be maintained by the commissioner of health care finance and policy or a  
29 designee. The monies shall be expended under the direction of the department of public health,  
30 without prior appropriation, solely to cover total non-federal program costs; provided, however,  
31 that the amount to be expended for storing and distributing vaccines for routine childhood  
32 immunizations, if such costs are not covered by federal contribution, and for the costs of  
33 administering the immunization registry, shall not exceed 10 per cent of the total amount of the  
34 fund expended for the purchase of vaccines needed for routine childhood immunizations for all

35 children in the commonwealth. Any balance in the fund at the close of a fiscal year shall be  
36 available for expenditure in subsequent fiscal years and shall not be transferred to any other fund  
37 or revert to the General Fund. The commissioner of health care finance and policy or a designee  
38 shall report annually to the house and senate committees on ways and means the amount of funds  
39 collected and any expenditures made from the fund.

40 Section 3. There shall be a vaccine purchase advisory council consisting of the  
41 commissioner of public health or a designee, who shall serve as chair; the medical director of the  
42 universal immunization program of the department of public health established under section 24I  
43 of chapter 111; the commissioner of health care finance and policy or a designee; the executive  
44 director of the commonwealth health insurance connector authority or a designee; 3 persons to be  
45 appointed by the commissioner of insurance, each of whom shall be a representative of 1 of the 3  
46 health insurance companies having the most insured lives in the commonwealth; and 8 persons to  
47 be appointed by the commissioner of public health, 1 of whom shall be a representative of an  
48 employer that self-insures for health coverage who shall be appointed from lists of nominees  
49 submitted by statewide associations of employers, 1 of whom shall be a representative of the  
50 pharmaceutical manufacturing industry with expertise in researching, developing and  
51 manufacturing vaccines, 1 of whom shall be a member of the Massachusetts Medical Society, 1  
52 of whom shall be a member of the Massachusetts chapter of the American Academy of  
53 Pediatrics, 1 of whom shall be a member of the Massachusetts Academy of Family Physicians,  
54 and 3 of whom shall be physicians licensed to practice in the commonwealth and who shall have  
55 expertise in the area of childhood vaccines. The council shall recommend the types of vaccines  
56 to be purchased based on a list of routine childhood immunizations and shall take into account  
57 provider preference, cost, availability and other factors as determined by the council. The

58 council shall recommend the amount of funding needed each fiscal year by calculating the total  
59 non-federal program cost. The commissioner of public health shall determine the final vaccines  
60 to be purchased.

61 Section 4. The commissioner of health care finance and policy shall determine the final  
62 amount required to be included in the Vaccine Purchase Trust Fund for the next fiscal year to  
63 cover the estimated vaccine cost under this chapter and shall annually provide surcharge payors  
64 notice of the assessment amount for the trust fund year not later than January 1.

65 Under regulations adopted by the commissioner of health care finance and policy, each  
66 surcharge payor in the commonwealth shall pay to the commissioner of health care finance and  
67 policy, for deposit in the Vaccine Purchase Trust Fund, a routine childhood immunizations  
68 surcharge assessed by the commissioner; provided, however, that the amount of the routine  
69 childhood immunizations surcharge assessed to cover the costs for storing and distributing such  
70 vaccines, if such costs are not covered by federal contribution, and for the costs of administering  
71 the immunization registry, shall not exceed 10 per cent of the amount of the routine childhood  
72 immunizations surcharge assessed to cover the purchase of vaccines needed for routine  
73 childhood immunizations for all children in the commonwealth. The regulations shall establish  
74 dates for assessing and payment of such surcharge and shall permit and enable expenditure of  
75 funds by the department of public health. The annual contribution into the trust fund shall be  
76 deposited annually by July 1. The surcharge shall be a percentage of the final amount  
77 determined by the commissioner of health care finance and policy under this section; provided,  
78 however that the commissioner of health care finance and policy shall not increase the total  
79 amount of the surcharge more than 4 per cent over the previous fiscal year unless the  
80 commissioner of health care finance and policy, in consultation with the commissioner of public

81 health, submits a detailed report to the legislature explaining the need for such increase. If the  
82 reason for such increase is due to the purchase of new vaccines, as recommended by the vaccine  
83 purchase advisory council, such report shall include an analysis of cost savings generated by use  
84 of the state vaccine purchasing discount.

85         Section 5. The department of public health may adopt rules and regulations as necessary  
86 to implement the universal purchase and distribution system under this chapter and other  
87 applicable state and federal laws. The rules and regulations shall establish the system by which  
88 vaccines are distributed for children in the commonwealth.

89         Section 6. Every surcharge payor, to the extent not preempted by federal law, shall  
90 provide benefits for: (i) routine childhood immunizations for residents of the commonwealth;  
91 and (ii) immunizations for residents of the commonwealth who are 19 years of age and older  
92 according to the most recent schedules recommended by the Advisory Committee on  
93 Immunization Practices of the United States Department of Health and Human Services. These  
94 benefits shall be exempt from any copayment, coinsurance, deductible or dollar limit provisions  
95 in the health insurance policy or contract.

96         SECTION 2. Notwithstanding any general or special law to the contrary, in fiscal year  
97 2014, the commissioner of health care finance and policy shall not increase the total amount of  
98 the routine childhood immunizations surcharge more than 7 per cent over item 4580-1000 in the  
99 fiscal year 2013 general appropriations act, plus any supplemental fiscal year 2013 funding to  
100 said item 4580-1000, unless the commissioner of health care finance and policy, in consultation  
101 with the commissioner of public health, submits a detailed report to the legislature explaining the  
102 need for such increase; and provided further, that in state fiscal year 2015, the commissioner of

103 health care finance and policy shall not increase the total amount of the surcharge more than 7  
104 per cent over the fiscal year 2014 surcharge amount unless the commissioner of health care  
105 finance and policy, in consultation with the commissioner of public health, submits a detailed  
106 report to the legislature explaining the need for such increase.

107 SECTION 3. The routine childhood immunizations surcharge assessment required under  
108 section 4 of chapter 118I of the General Laws shall take effect on July 1, 2013.