

**SENATE . . . . . No. 529**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Richard T. Moore***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing the Massachusetts Childhood Vaccine Program and the Massachusetts Immunization Registry.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Richard T. Moore</i>	
<i>Michael O. Moore</i>	
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>

**SENATE . . . . . No. 529**

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By Mr. Moore, a petition (accompanied by bill, Senate, No. 529) of Richard T. Moore, Michael O. Moore, Jason M. Lewis and Martha M. Walz for legislation to establish the Massachusetts Childhood Vaccine Program and the Massachusetts Immunization Registry. Health Care Financing.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 2195 OF 2009-2010.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Eleven**  
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An Act establishing the Massachusetts Childhood Vaccine Program and the Massachusetts Immunization Registry.

*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, as appearing in the 2008 Official Edition,  
2 shall be amended by adding after section chapter 118H the following new chapter:

3                   Chapter 118I: Section 1:

4                   Definitions. The following words, as used in this section, unless a different meaning is  
5 required by the context or is specifically prescribed, shall have the following meanings:

6                   “Child or Children,” individuals less than nineteen years of age.

7                   “Clinician,” a health care professional licensed under chapter 112.

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

10           “Facility,” a hospital, clinic or nursing home licensed under chapter 111 or a home health  
11 agency.

12           “Health care provider,” a clinician, a facility or a physician group practice.

13           “Health insurer,” includes surcharge payors as defined in section 34 of chapter 118G of  
14 the General Laws; however, for the purposes of this section, health insurer shall also include a  
15 contributory group general or blanket insurance for persons in the service of the commonwealth  
16 under chapter 32A; a contributory group general or blanket insurance for persons in the service  
17 of counties, cities, towns and districts, and their dependents under chapter 32B; and the medical  
18 assistance program administered by the division of medical assistance pursuant to chapter 118E  
19 and in accordance with Title XIX of the Social Security Act or any successor statute; Medicaid  
20 managed care organizations referenced in St. 1997, c. 47, § 28 for those health plans offered  
21 pursuant to M.G.L. c. 118H; and any other medical assistance program operated by a  
22 governmental unit for persons categorically eligible for such program. For the purposes of this  
23 act, “health insurer” shall not include any entity to the extent it offers a policy, certificate or  
24 contract of insurance that provides coverage solely for dental care services or vision care  
25 services. “Insured,” an enrollee, covered person, member, policyholder, subscriber or beneficiary  
26 of a health insurer.

27           “Participating provider”, a provider who, under a contract with a health insurer or with  
28 its contractor or subcontractor, has agreed to provide health care services to insureds with an

29 expectation of receiving payment, other than coinsurance, copayments or deductibles, directly or  
30 indirectly, from the carrier.

31 “Physician group practice,” two or more physicians who deliver patient care, make joint  
32 use of equipment and personnel and by agreement divide income earned by the physicians in the  
33 group.

34 "Routine childhood immunizations," immunizations for children until their nineteenth  
35 birthday, including, but not limited to: (1) the immunizations recommended by the federal  
36 Vaccines for Children Program; and (2) any immunizations as recommended by the Advisory  
37 Committee on Immunization Practices of the U.S. Department of Health and Human Services.

38 “Total non-federal program cost,” the estimated annual cost of vaccines needed for  
39 routine childhood immunizations for children covered by health insurers in the Commonwealth  
40 less the amount of federal revenue available to the commonwealth for purchase, storage,  
41 distribution and administration of such vaccines.

42 “Vaccine Purchase Trust Fund,” a fund to support a universal purchase system for  
43 childhood vaccines in the commonwealth.

44 Section 2: (a) There is established by the commonwealth a separate trust fund  
45 to be known as the Vaccine Purchase Trust Fund, in this section called the “Fund,” to support a  
46 universal purchase system for childhood vaccines in the Commonwealth. The specific purpose  
47 of the Fund shall be to cover the costs to purchase, store and distribute vaccines for routine  
48 childhood immunizations and to administer the Fund and the Massachusetts Immunization  
49 Registry, as established under section 24K of chapter 111. The fund shall consist of all monies  
50 paid to the commonwealth under subsection (c) and any interest earnings on such monies. The

51 Fund shall be maintained by the commissioner of the division of health care finance and policy  
52 or his or her designee. The monies shall be expended under the direction of the department of  
53 public health, without prior appropriation, solely for the purposes described in this section. Any  
54 balance in the Fund at the close of a fiscal year shall be available for expenditure in subsequent  
55 fiscal years and shall not be transferred to any other fund or revert to the General Fund. The  
56 commissioner of the division of health care finance and policy or his or her designee shall report  
57 annually to the house and senate committees on ways and means the amount of funds collected  
58 and any expenditures made from the Fund.

59 (b) There is established a vaccine purchase advisory council consisting of the  
60 commissioner of public health or his or her designee; the Medical Director of the Massachusetts  
61 Immunization Program of the Department of Public Health; the commissioner of the division of  
62 health care finance and policy or his or her designee; the Executive Director of the  
63 Commonwealth Health Insurance Connector Authority or his or her designee; the medical  
64 directors of the three health insurance companies having the most covered lives in the  
65 commonwealth; four health care provider representatives appointed by the commissioner of  
66 public health, one of whom shall be a member of the Massachusetts Medical Society; one of  
67 whom shall be a member of The Massachusetts Chapter of the American Academy of Pediatrics;  
68 one of whom shall be a member of the Massachusetts Academy of Family Physicians; and one of  
69 whom shall be a physician licensed to practice in the commonwealth and who shall have  
70 expertise in the area of childhood vaccines. The commissioner of public health, or his or her  
71 designee, shall be the chair of the council. The council shall recommend the types of vaccine(s)  
72 to be purchased based on a list of routine childhood immunizations and shall take into account  
73 provider preference, cost, availability, and other factors as determined by the council. The

74 council shall recommend the amount of funding needed each fiscal year by calculating the total  
75 non-federal program cost. The council shall have independent authority to make  
76 recommendations required by this subsection. The commissioner of the department of public  
77 health shall determine the final vaccine(s) to be purchased. The commissioner of the division of  
78 health care finance and policy shall determine the final amount required to be included in the  
79 Vaccine Purchase Trust Fund for the next fiscal year to cover vaccines required for purchase,  
80 storage and distribution pursuant to this subsection.

81 (c) Pursuant to regulations to be promulgated by the commissioner of the  
82 division of health care finance and policy, each health insurer in the commonwealth shall pay to  
83 the commissioner of the division of health care finance and policy, for deposit in the Vaccine  
84 Purchase Trust Fund, a child immunizations fee assessed by the commissioner of the division of  
85 health care finance and policy. The regulations shall establish dates for assessing and  
86 contributing such fee and shall permit and enable expenditure of funds by the department of  
87 public health. The annual contribution into the trust fund initially shall be deposited by July 1,  
88 2010 and annually thereafter. Such fee shall be a percentage of the final amount determined by  
89 the commissioner of the division of health care finance and policy pursuant to subsection (b).

90 (d) The department of public health may promulgate rules and regulations as  
91 necessary to implement the universal purchase and distribution system, in accordance with this  
92 section and other applicable state and federal laws. The rules and regulations shall establish the  
93 system by which vaccines are distributed for children in the Commonwealth.

94 Section 3: (a) Every health insurer, as defined in section one, shall provide  
95 benefits for (1) routine childhood immunizations for Massachusetts residents and (2)

96 immunizations for Massachusetts residents who are 19 years of age and over according to the  
97 most recent schedules recommended by the Advisory Committee on Immunization Practices of  
98 the U.S. Department of Health and Human Services. These benefits shall be exempt from any  
99 copayment, coinsurance, deductible, or dollar limit provisions in the health insurance policy or  
100 contract.

101 (b) Health insurers shall pay to health care providers 100% of the reasonable  
102 and customary charges for those immunizations described in Section 3(a), excluding those costs  
103 covered by the commonwealth or the federal government,, and any reasonable and customary  
104 costs associated with the administration of the vaccines. Notwithstanding any general or special  
105 law to the contrary, a health insurer shall provide such reimbursement to any health care provider  
106 who administers covered immunizations in any facility, health care provider's office or any other  
107 setting in the Commonwealth and shall not limit such reimbursement to providers that are  
108 participating providers.

109 SECTION 2. Chapter 111 of the General Laws, as appearing in the 2008  
110 Official Edition, is hereby amended by inserting after 24K the following section:-

111 Section 24L. The department of public health shall establish, maintain, and  
112 operate a computerized information system to be known as the Massachusetts Immunization  
113 Registry. The Massachusetts immunization registry shall record immunizations and  
114 immunization history with identifying information. The Massachusetts immunization registry  
115 shall include appropriate controls to protect the security of the system and the privacy of the  
116 information.

117                   The department shall promulgate rules and regulations to implement the  
118 Massachusetts immunization registry.

119                   All licensed health care providers administering vaccinations shall discuss the reporting  
120 procedures of the Massachusetts immunization registry with the parent, guardian, or individual  
121 receiving the vaccinations, and offer them the right to object to the disclosure of such  
122 information as set forth in this section.

123                   Notwithstanding any restrictions set forth in chapter 46 and section 24B of  
124 chapter 111, upon receipt of an initial birth record for a newborn, the state registrar of vital  
125 records and statistics shall transmit to the Massachusetts immunization registry the information  
126 regarding immunizations administered to a newborn and such other information transmitted with  
127 the birth record that the department determines to be the minimum necessary for the effective  
128 operation of the Massachusetts immunization registry.

129                   All licensed health care providers practicing in Massachusetts who administer  
130 immunizations to individuals in Massachusetts shall report to the Massachusetts immunization  
131 registry such data related to immunizations as the department determines is necessary for disease  
132 prevention and control.

133                   Immunization information may be released from the Massachusetts  
134 immunization registry to the select group of individuals and agencies outlined below without  
135 further explicit consent of the individual or the minor child's parent or guardian, unless the  
136 individual or the parent or guardian objects to such disclosure.

137                   The department may grant access to the Massachusetts immunization registry  
138 to the following categories of users in the commonwealth: (1) licensed health care providers



139 providing direct care to the individual patient, (2) elementary and secondary school nurses and  
140 registration officials who require proof of immunizations for purposes of school enrollment and  
141 disease control; (3) local boards of health for disease prevention and control; (4) Women Infants  
142 and Children Nutrition Program (WIC) staff who administer WIC benefits to eligible infants and  
143 Children; (5) staff of state agencies or state programs whose duties include education and  
144 outreach related to the improvement of immunization coverage rates among their clients.

145           The department may designate appropriate users who shall have access only to  
146 the individually identifiable information for which access is authorized. Authorized users,  
147 including employees of the department, who in good faith disclose or do not disclose information  
148 to the Massachusetts immunization registry, shall not be liable in any cause of action arising  
149 from the disclosure or nondisclosure of such information. The department may revoke access  
150 privileges for just cause.

151           Persons authorized by the commissioner may conduct research studies pursuant to c. 111,  
152 §24A, provided that the researcher submits a written request for information and executes a  
153 research agreement that protects the confidentiality of the information provided.

154           The department may enter into collaborative agreements with registries of other  
155 states, and exchange individual or group information provided that maximum protections are  
156 afforded the confidentiality of citizens of the commonwealth in accordance with state law.

157           Information contained in the Massachusetts immunization registry is  
158 confidential and shall not constitute a public record nor be available except in accordance with  
159 this section. Such confidential information shall not be subject to subpoena or court order and

160 shall not be admissible as evidence in any action of any kind before any court, tribunal, agency,  
161 board, or person.

162                   The department shall establish procedures that allow for any individual, parent,  
163 or guardian to amend incorrect information in the Massachusetts immunization registry and shall  
164 provide, upon request, a record of all individuals and agencies that have accessed an individual's  
165 information.