

SENATE No. 1971

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act establishing the 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. Chapter 111 of the General Laws is hereby amended by inserting after
2 section 24M the following section:—

3 Section 24N. (a) As used in this section the following words shall, unless the context
4 clearly requires otherwise, have the following meanings:

5 “Children”, individuals less than 19 years of age.

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

8 “Payments subject to surcharge”, as defined in section 64 of chapter 118E.

9 “Routine childhood immunizations”, immunizations for children until their nineteenth
10 birthday including (i) the immunizations recommended by the federal Vaccines for Children
11 Program and (ii) any immunizations recommended by the Advisory Committee on Immunization
12 Practices of the federal Centers for Disease Control and Prevention.

13 “Surcharge payors”, those entities defined as surcharge payors under section 64 of
14 chapter 118E, who made payments subject to surcharge of \$1,000,000 or more during the most
15 recent period for which data is available on July 1 of the current fiscal year.

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

20 (b) There shall be established in the commonwealth a separate trust fund to be known as
21 the Vaccine Purchase Trust Fund to support a universal purchase system for routine childhood
22 immunizations in the commonwealth. The fund shall be expended to cover the costs to purchase,
23 store and distribute vaccines for routine childhood immunizations and to administer the fund and
24 the immunization registry, established under section 24M. The fund shall consist of all monies
25 paid to the commonwealth under subsection (d) and any interest earnings on such monies. The
26 fund shall be maintained by the commissioner of public health or a designee. The monies shall
27 be expended under the direction of the department of public health, without prior appropriation,
28 solely to cover total non-federal program costs; provided, however, that the amount to be
29 expended for storing and distributing vaccines for routine childhood immunizations, if such costs
30 are not covered by federal contribution, and for the costs of administering the immunization
31 registry, shall not exceed 10 per cent of the total amount of the fund expended for the purchase
32 of vaccines needed for routine childhood immunizations for all children in the commonwealth.
33 Any balance in the fund at the close of a fiscal year shall be available for expenditure in
34 subsequent fiscal years and shall not be transferred to any other fund or revert to the General
35 Fund. The commissioner of public health or a designee shall annually report the amount of funds
36 collected and any expenditures made from the fund to the clerks of the house of representatives
37 and senate to be forwarded on to the house and senate committees on ways and means, the house
38 and senate chairs of the joint committee on public health and the house and senate chairs of the
39 joint committee on health care financing.

40 (c) There shall be a vaccine program advisory council consisting of the commissioner of
41 public health or a designee, who shall serve as chair; the medical director of the universal
42 immunization program of the department of public health established under section 24I; the
43 executive director for the center for health information and analysis or a designee; the executive
44 director of the commonwealth health insurance connector authority or a designee; 1 person to be
45 appointed by the director of Medicaid, who shall be a representative of managed care
46 organizations contracting with MassHealth; 3 persons to be appointed by the commissioner of
47 insurance, each of whom shall be a representative of 1 of the 3 health insurance companies
48 having the most insured lives in the commonwealth; and 7 persons to be appointed by the
49 commissioner of public health, 1 of whom shall be a representative of an employer that self-
50 insures for health coverage who shall be appointed from lists of nominees submitted by statewide
51 associations of employers, 1 of whom shall be a member of the Massachusetts Medical Society,
52 1 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 council
58 shall recommend the amount of funding needed each fiscal year by calculating the total non-
59 federal program cost. The council shall make recommendations to the commissioner on whether

60 the commissioner may authorize provider choice of more than 1 comparable brand or type for a
61 routine childhood immunization vaccine. In its recommendations, the council shall examine the
62 feasibility, costs and benefits of authorizing provider choice, provide a schedule of the cost of
63 each comparable brand or type of a vaccine recommended for provider choice and demonstrate
64 that the estimated vaccine cost of authorizing provider choice would not be substantially greater
65 than the estimated vaccine cost of purchasing a single brand or type of a vaccine. The
66 commissioner of public health shall determine the final vaccines to be purchased.

67 (d) Under regulations adopted by the commissioner of public health, each surcharge
68 payor in the commonwealth shall pay to the commissioner of public health, for deposit in the
69 Vaccine Purchase Trust Fund, a routine childhood immunizations surcharge assessed by the
70 commissioner. By January 1 of each year, the commissioner of public health shall determine the
71 total amount of the surcharge for the current fiscal year by determining the final amount required
72 to be included in the Vaccine Purchase Trust Fund for the current fiscal year to cover the
73 estimated costs to purchase, store and distribute vaccines for routine childhood immunizations
74 and to administer the fund and the immunization registry, established under section 24M. The
75 amount shall exclude any costs anticipated to be covered by federal contribution, shall take into
76 consideration the limitations on expenditures described in subsection (b) and shall take into
77 account any anticipated surplus or deficit in the trust fund. Any increase in the surcharge amount
78 for the prior fiscal year shall not increase more than the percentage set as the health care cost
79 growth benchmark, established under section 9 of chapter 6D, unless the commissioner of public
80 health submits a detailed report to the clerks of the house and senate who shall forward the report
81 to the house and senate committees on ways and means, the house and senate chairs of the joint
82 committee on public health and the house and senate chairs of the joint committee on health care
83 financing explaining the need for the increase. If the reason for the increase is due to the
84 purchase of new vaccines and the authorization of provider choice for certain vaccines, as
85 recommended by the vaccine program advisory council, the report shall include an analysis of
86 cost savings generated by use of the state vaccine purchasing discount.

87 The commissioner shall annually provide surcharge payors notice of the assessment
88 amount for the trust fund year not later than 15 days prior to the due date of the first scheduled
89 surcharge payment or March 1, whichever is earlier. Surcharge payors shall pay the surcharge on
90 a schedule determined by regulation; provided, however, that the schedule shall ensure sufficient
91 funds for the trust fund to fulfill the purposes described in subsection (b). Each surcharge payor
92 shall pay a portion of the total amount of the surcharge proportional to their payments subject to
93 surcharge during the most recent period for which data is available, as further defined in
94 regulation.

95 (e) The department of public health may adopt rules and regulations as necessary to
96 implement the universal purchase and distribution system under this chapter and other applicable
97 state and federal laws. The rules and regulations shall establish the system by which vaccines are
98 distributed for children in the commonwealth.

99 (f) Every surcharge payor, to the extent not preempted by federal law, shall provide
100 benefits for: (i) routine childhood immunizations for residents of the commonwealth and (ii)
101 immunizations for residents of the commonwealth who are 19 years of age and older according
102 to the most recent schedules recommended by the Advisory Committee on Immunization
103 Practices of the federal Centers for Disease Control and Prevention. These benefits shall be
104 exempt from any copayment, coinsurance, deductible or dollar limit provisions in the health
105 insurance policy or contract.

106 SECTION 2. Section 2 of chapter 38 of the acts of 2013 is hereby amended by inserting
107 after item number 4580-1000 the following item number:- 4580-1004 For the department of
108 public health, which may expend an amount not to exceed \$1,500,000 from the assessments
109 collected under item 4580-1000 that exceed the department’s projected fiscal year 2014 costs for
110 purchasing and distributing childhood vaccines for children; to support the immunization registry
111 established under section 24M of chapter 111 of the General Laws; provided, that if the
112 assessments collected under item 4580-1000 do not exceed projected fiscal year 2014 costs no
113 supplemental assessment shall be made on surcharge payers; and provided further, that for the
114 purpose of accommodating timing discrepancies between the receipt of revenues and related
115 expenditures, the department may incur expenses and the comptroller may certify for payment
116 amounts not to exceed the lower of this authorization or the most recent revenue estimate as
117 reported in the state accounting system\$1,500,000

118 SECTION 3. Notwithstanding any general or special law to the contrary, the department
119 of public health may make expenditures from the start of each fiscal year from the Vaccine
120 Purchase Trust Fund established under section 24N of chapter 111 of the General Laws in
121 anticipation of assessments on surcharge payors under said section 24N of said chapter 111.

122 SECTION 4. Not later than October 1, 2014, the department of public health shall
123 promulgate regulations as necessary to implement the routine childhood immunizations
124 surcharge assessment required under section 24N of chapter 111 of the General Laws.

125 SECTION 5. Section 1 shall take effect on June 30, 2014.

126 SECTION 6. Sections 2 and 3 shall take effect upon their passage.