

**SENATE . . . . . No. 534**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

***Richard T. Moore***

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*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 childhood vaccine program.**

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PETITION OF:

NAME:

*Richard T. Moore*

DISTRICT/ADDRESS:

*Worcester and Norfolk*

**SENATE . . . . . No. 534**

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By Mr. Richard T. Moore, a petition (accompanied by bill, Senate, No. 534) of Richard T. Moore for legislation to establish the childhood vaccine program. Health Care Financing.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 2362 OF 2011-2012.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Thirteen**  
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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. 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 “Payments Subject to Surcharge”, as defined in section 64 of chapter 118E.

11 “Routine childhood immunizations”, immunizations for children until their nineteenth  
12 birthday including, but not limited to: (1) the immunizations recommended by the federal  
13 Vaccines for Children Program; and (2) any immunizations recommended by the Advisory  
14 Committee on Immunization Practices of the United States Department of Health and Human  
15 Services.

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

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

23 Section 2. There shall be established in the commonwealth a separate trust fund to be  
24 known as the Vaccine Purchase Trust Fund to support a universal purchase system for childhood  
25 vaccines in the commonwealth. The fund shall be expended to cover the costs to purchase, store  
26 and distribute vaccines for routine childhood immunizations and to administer the fund and the  
27 immunization registry, established under section 24M of chapter 111. The fund shall consist of  
28 all monies paid to the commonwealth under section 4 and any interest earnings on such monies.  
29 The fund shall be maintained by the commissioner of public health or a designee. The monies  
30 shall be expended under the direction of the department of public health, without prior  
31 appropriation, solely to cover total non-federal program costs; provided, however, that the  
32 amount to be expended for storing and distributing vaccines for routine childhood  
33 immunizations, if such costs are not covered by federal contribution, and for the costs of  
34 administering the immunization registry, shall not exceed 10 per cent of the total amount of the  
35 fund expended for the purchase of vaccines needed for routine childhood immunizations for all  
36 children in the commonwealth. Any balance in the fund at the close of a fiscal year shall be  
37 available for expenditure in subsequent fiscal years and shall not be transferred to any other fund  
38 or revert to the General Fund. The commissioner of public health or a designee shall report  
39 annually to the house and senate committees on ways and means and the house and senate chairs  
40 of the joint committee on health care financing the amount of funds collected and any  
41 expenditures made from the fund.

42 Section 3. There shall be a vaccine purchase advisory council consisting of the  
43 commissioner of public health or a designee, who shall serve as chair; the medical director of the  
44 universal immunization program of the department of public health established under section 24I  
45 of chapter 111; the executive director for the center for health information and analysis or a  
46 designee; the executive director of the commonwealth health insurance connector authority or a  
47 designee; 3 persons to be appointed by the commissioner of insurance, each of whom shall be a  
48 representative of 1 of the 3 health insurance companies having the most insured lives in the  
49 commonwealth; and 8 persons to be appointed by the commissioner of public health, 1 of whom  
50 shall be a representative of an employer that self-insures for health coverage who shall be  
51 appointed from lists of nominees submitted by statewide associations of employers, 1 of whom  
52 shall be a representative of the pharmaceutical manufacturing industry with expertise in  
53 researching, developing and manufacturing vaccines, 1 of whom shall be a member of the  
54 Massachusetts Medical Society, 1 of whom shall be a member of the Massachusetts chapter of

55 the American Academy of Pediatrics, 1 of whom shall be a member of the Massachusetts  
56 Academy of Family Physicians, and 3 of whom shall be physicians licensed to practice in the  
57 commonwealth and who shall have expertise in the area of childhood vaccines. The council shall  
58 recommend the types of vaccines to be purchased based on a list of routine childhood  
59 immunizations and shall take into account provider preference, cost, availability and other  
60 factors as determined by the council. The council shall recommend the amount of funding  
61 needed each fiscal year by calculating the total non-federal program cost. The commissioner of  
62 public health shall determine the final vaccines to be purchased.

63 Section 4. Under regulations adopted by the commissioner of public health, each  
64 surcharge payor in the commonwealth shall pay to the commissioner of public health, for deposit  
65 in the Vaccine Purchase Trust Fund, a routine childhood immunizations surcharge assessed by  
66 the commissioner. By January 1 of each year, the commissioner of public health shall determine  
67 the total amount of such surcharge for the following fiscal year by determining the final amount  
68 required to be included in the Vaccine Purchase Trust Fund for the following fiscal year to cover  
69 the estimated costs to purchase, store and distribute vaccines for routine childhood  
70 immunizations and to administer the fund and the immunization registry, established under  
71 section 24M of chapter 111. Such amount shall exclude any costs anticipated to be covered by  
72 federal contribution, shall take into consideration the limitations on expenditures described in  
73 Section 2, and shall take into account any anticipated surplus or deficit in the trust fund. Such  
74 amount shall not be more than 4 per cent greater than the surcharge amount for the prior fiscal  
75 year unless the commissioner of public health submits a detailed report to the legislature  
76 explaining the need for such increase. If the reason for such increase is due to the purchase of  
77 new vaccines, as recommended by the vaccine purchase advisory council, such report shall  
78 include an analysis of cost savings generated by use of the state vaccine purchasing discount.

79 The commissioner shall annually provide surcharge payors notice of the assessment  
80 amount for the trust fund year not later than March 1. Surcharge payors shall pay the surcharge  
81 on a schedule determined by regulation, provided that such schedule shall ensure sufficient funds  
82 for the trust fund to fulfill the purposes described in section 2. Each surcharge payor shall pay a  
83 portion of the total amount of the surcharge proportional to their payments subject to surcharge  
84 during the most recent period for which data is available, as further defined in regulation.

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

105 SECTION 8. The routine childhood immunizations surcharge assessment required under  
106 section 4 of chapter 118I of the General Laws shall take effect on July 1, 2013.