

**PROPOSED AMENDMENTS TO
SENATE BILL 442**

1 In line 2 of the printed bill, after the semicolon insert “creating new
2 provisions; amending ORS 433.235, 433.267 and 433.273;”.

3 After line 3, insert:

4 “Whereas school immunization requirements mandated by state legisla-
5 tures have played a major role in achieving and maintaining low rates of
6 vaccine-preventable diseases in the United States; and

7 “Whereas when the rate at which children are opted out of state immu-
8 nization requirements increases, individual and community risks associated
9 with vaccine-preventable diseases increase; and

10 “Whereas certain children are unable to be immunized for medical rea-
11 sons, including children who are under the age of one, children with immune
12 disorders caused by chemotherapy or other factors and children who have
13 naturally suppressed immune systems; and

14 “Whereas as the rate of immunization among all children increases, the
15 risks associated with vaccine-preventable diseases for children who are una-
16 ble to be immunized decreases; and

17 “Whereas the rate of immunization among all children for measles must
18 be 95 percent or greater to protect children who are unable to be immunized;
19 and

20 “Whereas less than 90 percent of all children in this state who are three
21 years old or younger have received a single dose of the mumps, measles and
22 rubella vaccine; and

1 “Whereas less than 67 percent of all children in this state who are three
2 years old or younger have received the recommended dosage of the mumps,
3 measles and rubella vaccine; and

4 “Whereas less than 94 percent of all children in this state who attend
5 kindergarten have received the recommended dosage of the mumps, measles
6 and rubella vaccine; and

7 “Whereas less than 89 percent of children in this state who attend private
8 kindergarten have received the recommended dosage of the mumps, measles
9 and rubella vaccine; and

10 “Whereas children who are not immunized are also in danger of con-
11 tracting noncontagious vaccine-preventable diseases, such as tetanus; and

12 “Whereas less than 94 percent of all children in this state who attend
13 kindergarten have received the recommended dosage of the tetanus vaccine;
14 and

15 “Whereas the rate of immunization among all children in states where
16 children may be opted out of state immunization requirements only for
17 medical reasons is more than 99 percent; and

18 “Whereas those states benefit from a decrease in the risks associated with
19 vaccine-preventable diseases; and

20 “Whereas the health of other individuals also depends on a high rate of
21 immunization among all individuals, including individuals who do not have
22 working immune systems, individuals undergoing chemotherapy, individuals
23 with the human immunodeficiency virus and the elderly; and

24 “Whereas not one organized religion in this state prohibits the observers
25 of its tenets from being immunized; and

26 “Whereas increasing the rate of immunization among all children in this
27 state is in the best interests of the residents of this state; and

28 “Whereas eliminating the nonmedical exemption from the school immu-
29 nization requirements of the state is the least burdensome means of achiev-
30 ing those interests; now, therefore,”.

1 Delete lines 5 through 17 and insert:

2 **“SECTION 1. Section 2 of this 2015 Act is added to and made a part**
3 **of ORS 433.235 to 433.284.**

4 **“SECTION 2. The Legislative Assembly finds and declares that:**

5 **“(1) School immunization requirements mandated by state legisla-**
6 **tures have played a major role in achieving and maintaining low rates**
7 **of vaccine-preventable diseases in the United States;**

8 **“(2) All states and the District of Columbia require children enter-**
9 **ing the public school system to provide documentation of having met**
10 **a state immunization requirement;**

11 **“(3) State laws requiring immunizations and providing for the doc-**
12 **umentation of the immunization status of children should be viewed**
13 **as part of the efforts to control or eliminate vaccine-preventable dis-**
14 **eases;**

15 **“(4) When the rate at which children are opted out of state immu-**
16 **nization requirements increases, individual and community risks as-**
17 **sociated with vaccine-preventable diseases increase;**

18 **“(5) State laws that provide exemptions to a state immunization**
19 **requirement, either by exempting persons from the requirement on the**
20 **basis of personal belief or by creating a process whereby a child may**
21 **easily be opted out of the requirement, lead to high numbers of chil-**
22 **dren not having met the state immunization requirement and lead to**
23 **an increase in the risks associated with vaccine-preventable diseases;**

24 **“(6) Certain children are unable to be immunized for medical rea-**
25 **sons, including children who are under the age of one, children with**
26 **immune disorders caused by chemotherapy or other factors and chil-**
27 **dren who have naturally suppressed immune systems;**

28 **“(7) As the rate of immunization among all children increases, the**
29 **risks associated with vaccine-preventable diseases for children who are**
30 **unable to be immunized decreases;**

1 “(8) The immunization rate of children in this state is not sufficient
2 to protect children who are unable to be immunized, with all counties
3 falling below the rate at which ‘community immunity’ prevents the
4 spread of vaccine-preventable diseases, such as mumps, measles and
5 rubella;

6 “(9) Children who are not immunized are also in danger of con-
7 tracting noncontagious vaccine-preventable diseases, such as tetanus;

8 “(10) As of the effective date of this 2015 Act, the Centers for Dis-
9 ease Control and Prevention recommends routine vaccinations for 17
10 vaccine-preventable diseases for all children who are able to be
11 immunized;

12 “(11) The National Institutes of Health similarly recommends rou-
13 tine vaccinations for vaccine-preventable diseases for all children who
14 are able to be immunized;

15 “(12) States that do not have laws providing an exemption to a state
16 immunization requirement for nonmedical reasons, such as
17 Mississippi, maintain a high rate of immunization among all children
18 and benefit from a decrease in the risks associated with vaccine-
19 preventable diseases;

20 “(13) Children who are unable to be immunized for medical reasons
21 should be granted an exemption to any relevant state immunization
22 requirement; and

23 “(14) All democratic societies should try to balance the rights and
24 views of a variety of constituencies.

25 “**SECTION 3.** ORS 433.267 is amended to read:

26 “433.267. (1) As a condition of [*attendance in any*] **attending a** school or
27 children’s facility in this state, every child through grade 12 shall submit to
28 the administrator **of the school or facility**, unless the school or facility the
29 child attends already has on file a record that indicates that the child has
30 received immunizations against the restrictable diseases prescribed by rules

1 of the Oregon Health Authority [*as provided in*] **pursuant to** ORS 433.273,
2 one of the following:

3 “(a) A document, signed by the parent[, *a practitioner of the healing arts*
4 *who has within the scope of the practitioner’s license the authority*] **of the**
5 **child, a health care practitioner who is authorized under the laws of**
6 **the state** to administer immunizations or a representative of the local health
7 department, certifying the immunizations the child has received;

8 “(b) **A document, signed by the parent of the child, a health care**
9 **practitioner who is authorized under the laws of the state to adminis-**
10 **ter immunizations or a representative of the local health department,**
11 **verifying that the child is receiving immunizations in accordance with**
12 **a ‘catch-up’ immunization schedule approved by the United States**
13 **Public Health Service Advisory Committee on Immunization Practices**
14 **or its successor organization; or**

15 “[*(b)*] (c) A document, signed by a physician [*or a representative of the*
16 *local health department*] **licensed to practice medicine or osteopathy un-**
17 **der ORS chapter 677**, stating that the child should be exempted from re-
18 ceiving a specified immunization because of [*indicated medical diagnosis;*
19 *or*] **an approved medical indication.**

20 “[*(c)*] A document, on a form prescribed by the authority by rule and signed
21 by the parent of the child, stating that the parent is declining one or more
22 immunizations on behalf of the child. A document submitted under this para-
23 graph:]

24 “[*(A)*] *May include the reason for declining the immunization, including*
25 *whether the parent is declining the immunization because of a religious or*
26 *philosophical belief; and]*

27 “[*(B)*] *Must include either:*]

28 “[*(i)*] *A signature from a health care practitioner verifying that the health*
29 *care practitioner has reviewed with the parent information about the risks and*
30 *benefits of immunization that is consistent with information published by the*

1 Centers for Disease Control and Prevention and the contents of the vaccine
2 educational module approved by the authority pursuant to rules adopted under
3 ORS 433.273; or]

4 “[ii) A certificate verifying that the parent has completed a vaccine edu-
5 cational module approved by the authority pursuant to rules adopted under
6 ORS 433.273.]

7 “(2)(a) A newly entering child or a transferring child [*shall be required*
8 *to submit the document*] **must submit documentation** described in sub-
9 section (1) of this section prior to attending the school or **children’s** facility.

10 “(b) Notwithstanding paragraph (a) of this subsection, a child transferring
11 from a school in the United States must submit [*the document required by*]
12 **documentation described in** subsection (1) of this section not later than
13 [*the*] **an** exclusion date [*set by rule of the authority*] **established by the au-**
14 **thority by rule.**

15 “(3) [*Persons who have*] **A person who has** been emancipated pursuant
16 to ORS 419B.558 or who [*have*] **has** reached the age of consent for medical
17 care pursuant to ORS 109.640 may sign [*those documents on their own*
18 *behalf*], **on the person’s own behalf, documentation** otherwise requiring
19 the [*signatures of parents*] **signature of a parent** under subsection (1) of this
20 section.

21 “(4) The administrator **of a school or children’s facility** shall conduct
22 a primary evaluation of [*the records*] **documentation** submitted [*pursuant*
23 *to*] **under** subsection (1) of this section to determine whether the child is
24 entitled to begin attendance by reason of having submitted [*a document*]
25 **documentation** that complies with the requirements of subsection (1) of this
26 section.

27 “(5) If [*the records do*] **documentation submitted by a child under**
28 **subsection (1) of this section does** not meet the initial minimum require-
29 ments established **by the authority** by rule, the [*child may not be allowed*
30 *to attend*] **administrator of the school or children’s facility may not**

1 **allow the child to attend the school or facility** until the requirements are
2 met. If the *[records meet]* **documentation meets** the initial minimum re-
3 quirements, *[the child shall be allowed to attend]* **the administrator shall**
4 **allow the child to attend the school or facility.**

5 “(6) At the time specified by the authority by rule, *[records for children*
6 *meeting]* **documentation that meets** the initial minimum requirements **as**
7 **described in subsection (5) of this section** and records previously on file
8 **at the school or children’s facility as described in subsection (1) of this**
9 **section** shall be reviewed for completion of requirements by the administra-
10 tor **of the school or facility** to determine whether the child *[is entitled to*
11 *continue in attendance]* **may continue to attend the school or facility.** If
12 the **documentation or** records do not comply, the administrator shall notify
13 the local health department and *[shall transmit any]* **submit the documen-**
14 **tation or** records *[concerning the child’s immunization status]* to the local
15 health department.

16 “(7) *[The]* **A** local health department shall *[provide for a secondary evalu-*
17 *ation of the records]* **evaluate documentation or records submitted to the**
18 **local health department under subsection (6) of this section** to deter-
19 mine whether the child should be excluded for noncompliance with the re-
20 quirements *[stated in]* **of** subsection (1) of this section. If the child is
21 determined to be in noncompliance, the local health department shall issue
22 an exclusion order and *[shall]* send copies of the order to the parent **of the**
23 **child,** or the person who is emancipated or has reached the age of
24 *[majority]* **consent for medical care,** and the administrator **of the school**
25 **or children’s facility.** On the effective date of the order, the administrator
26 shall exclude the child from the school or facility and **may** not allow the
27 child to attend the school or facility until the requirements of this section
28 have been met.

29 “(8) The administrator **of the school or children’s facility** shall readmit
30 the child to the school or facility when in the judgment of the local health

1 department the child is in compliance with the requirements of this section.

2 “(9) The administrator **of the school or children’s facility** shall be re-
3 sponsible for updating [*the document described in*] **any documentation**
4 **submitted under** subsection (1)(a) of this section as **is** necessary to reflect
5 the current status of the immunization of the child **who submitted the**
6 **documentation** and the time at which the child comes into compliance with
7 immunizations against the restrictable diseases prescribed by rules of the
8 authority pursuant to ORS 433.273.

9 “(10) Nothing in this section shall be construed as relieving agencies, in
10 addition to school districts, [*which*] **that** are involved in the maintenance
11 and evaluation of immunization records on April 27, 1981, from continuing
12 [*responsibility for these*] **to be responsible for such** activities.

13 “(11) All documents required by this section shall be on forms approved
14 or provided by the authority.

15 “(12) In lieu of **the** signed documents [*from practitioners*] **described in**
16 **subsection (1)(a) and (b) of this section**, the authority may accept immu-
17 nization record updates using [*practitioner documented*] immunization records
18 generated by electronic means or on unsigned [*practitioner*] letterhead if the
19 authority determines [*such*] **the** records are accurate.

20 “(13) As used in this section:

21 “(a) ‘Newly entering child’ means a child who is initially attending:

22 “(A) A **children’s** facility in this state;

23 “(B) A school at the entry grade level;

24 “(C) **After receiving homeschooling or being enrolled in a virtual**
25 **public charter school**, either a school at any grade level or a **children’s**
26 facility [*from homeschooling*]; or

27 “(D) **After entering the United States from another country**, a school
28 at any grade level or a **children’s** facility [*after entering the United States*
29 *from another country*].

30 “(b) ‘Transferring child’ means a child moving from:

1 “(A) One **children’s** facility to another **children’s** facility;
2 “(B) One school in this state to another school in this state, when the
3 move is not the result of a normal progression of grade level; or

4 “(C) A school in another state to a school in this state.

5 **“SECTION 4.** ORS 433.235 is amended to read:

6 “433.235. As used in ORS 433.235 to 433.284:

7 “(1) ‘Administrator’ means the principal or other person having general
8 control and supervision of a school or children’s facility.

9 “(2) ‘Children’s facility’ or ‘facility’ means:

10 “(a) A certified child care facility as described in ORS 329A.030 and
11 329A.250 to 329A.450, except as exempted by rule of the Oregon Health Au-
12 thority;

13 “(b) A program operated by, or sharing the premises with, a certified child
14 care facility, school or post-secondary institution where care is provided to
15 children, six weeks of age to kindergarten entry, except as exempted by rule
16 of the authority; or

17 “(c) A program providing child care or educational services to children,
18 six weeks of age to kindergarten entry, in a residential or nonresidential
19 setting, except as exempted by rule of the authority.

20 “(3) ‘Local health department’ means the district or county board of
21 health, public health officer, public health administrator or health depart-
22 ment having jurisdiction within the area.

23 “(4) ‘Parent’ means a parent or guardian of a child or any adult respon-
24 sible for the child.

25 “(5) ‘Physician’ means a physician licensed by the Oregon Medical Board
26 or by the Oregon Board of Naturopathic Medicine or a physician similarly
27 licensed by another state or country in which the physician practices or a
28 commissioned medical officer of the Armed Forces or Public Health Service
29 of the United States.

30 “(6)(a) ‘School’ means a public, private, parochial, charter or alternative

1 educational program offering kindergarten through grade 12 or any part
2 thereof, except as exempted by rule of the authority.

3 “(b) ‘School’ does not include a virtual public charter school, as
4 defined in ORS 338.005.

5 “**SECTION 5.** ORS 433.273 is amended to read:

6 “433.273. The Oregon Health Authority shall adopt rules pertaining to the
7 implementation of ORS 433.235 to 433.284, which shall include, but need not
8 be limited to:

9 “(1) The definition of ‘restrictable’ disease;

10 “(2) The required immunization against diseases, [*including rubella, con-*
11 *sidered to be dangerous to the public health under ORS 433.267*] **provided**
12 **that the authority requires immunization against rubella;**

13 “(3) **Subject to ORS 433.267 (1)(b)**, the time schedule for immunization;

14 “(4) The approved means of immunization;

15 “(5) The procedures and time schedule whereby children may be excluded
16 from attendance in schools or **children’s** facilities, [*including*] **provided**
17 **that the authority includes as part of those procedures** service of notice
18 to parents;

19 “(6) The manner in which immunization records for children are estab-
20 lished, evaluated and maintained;

21 “(7) [*The exempted*] **Exemptions for** schools and children’s facilities; **and**

22 “(8) The implementation of ORS 433.282 and 433.283[;].

23 “[*(9) The process for approving a vaccine educational module;*]

24 “[*(10) Criteria for a vaccine educational module, including the requirement*
25 *that a vaccine educational module present information that is consistent with*
26 *information published by the Centers for Disease Control and Prevention con-*
27 *cerning;*]

28 “[*(a) Epidemiology;*]

29 “[*(b) The prevention of disease through the use of vaccinations; and*]

30 “[*(c) The safety and efficacy of vaccines; and*]

1 “[11] *Documentation required to verify completion of a vaccine educational*
2 *module, including the qualifications of persons who may certify the*
3 *completion.*”]

4 **“SECTION 6. The amendments to ORS 433.267 and 433.273 by**
5 **sections 3 and 5 of this 2015 Act apply to children who attend a school**
6 **or children’s facility in this state during and after the 2015-2016 school**
7 **year.**

8 **“SECTION 7. This 2015 Act being necessary for the immediate**
9 **preservation of the public peace, health and safety, an emergency is**
10 **declared to exist, and this 2015 Act takes effect on its passage.”.**

11
