



## 2005 ASSEMBLY BILL 1181

April 13, 2006 - Introduced by Representative GRONEMUS, by request of Tim Ziegeweid and Anne Dachel. Referred to Committee on Health.

1     **AN ACT to amend** 40.51 (8), 40.51 (8m), 66.0137 (4), 111.91 (2) (p), 120.13 (2) (g),  
2             185.981 (4t) and 185.983 (1) (intro.); and **to create** 252.04 (12) and 632.865 of  
3             the statutes; **relating to:** mercury in drugs, prohibiting different insurance  
4             coverage of immunizations for children on the basis of the amount of mercury  
5             contained in the vaccine used, and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Current law requires the Department of Health and Family Services (DHFS) to carry out a statewide vaccination program to eliminate certain communicable diseases. Children admitted to school or day care must show evidence of vaccination unless the child's parent or guardian provides a written objection to vaccination for reasons of health, religion, or personal conviction. DHFS must provide vaccines to a school district or local health department free of charge, if the school district or local health department requests the vaccines and if state or federal funds for the vaccines are available. If the governor declares a public health emergency and designates DHFS as the lead state agency to respond to the public health emergency, DHFS may order a person to receive a vaccination unless the vaccine is reasonably likely to lead to serious harm for the person or unless the person refuses the vaccination for reasons of religion or conscience.

Beginning six months after this bill is enacted as an act, the bill prohibits any person from administering a vaccine that contains more than 0.5 micrograms of mercury per 0.25 milliliters or per 0.25 grams of vaccine to an individual. Beginning

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two years after this bill is enacted as an act, the bill prohibits any person from administering a vaccine that contains any mercury to an individual. However, the prohibition does not apply if a patient or his or her parent or guardian signs a consent form that provides warnings about adverse effects of mercury. Also, the bill does not prohibit administering a vaccine that contains more than the permitted level of mercury to comply with a vaccination order issued by DHFS during a public health emergency. A person who violates the prohibition against administering vaccines containing mercury may be fined not more than \$500 or imprisoned for not more than 30 days or both.

The bill prohibits any health care plan, including a self-insured health plan of the state or a municipality, that covers immunizations for children under the age of 14 years from providing a different level of coverage for such an immunization, imposing different cost-sharing requirements for the immunization, or reimbursing the immunization costs at a different rate on the basis of the amount of mercury contained in the vaccine or other product used for the immunization.

Finally, the bill requires DHFS to test the mercury content of vaccines available in this state and to post the test results on its Web site.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 40.51 (8) of the statutes is amended to read:

2           40.51 (8) Every health care coverage plan offered by the state under sub. (6)  
3 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8)  
4 and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.865,  
5 632.87 (3) to (5), 632.895 (5m) and (8) to (14), and 632.896.

6           **SECTION 2.** 40.51 (8m) of the statutes is amended to read:

7           40.51 (8m) Every health care coverage plan offered by the group insurance  
8 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,  
9 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.865, and 632.895 (11) to (14).

10           **SECTION 3.** 66.0137 (4) of the statutes is amended to read:

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1           66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or  
2 a village provides health care benefits under its home rule power, or if a town  
3 provides health care benefits, to its officers and employees on a self-insured basis,  
4 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),  
5 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.865, 632.87  
6 (4) and (5), 632.895 (9) to (14), 632.896, and 767.25 (4m) (d).

7           **SECTION 4.** 111.91 (2) (p) of the statutes is amended to read:

8           111.91 (2) (p) The requirements related to coverage of drugs and devices under  
9 s. 632.853 and low-mercury or mercury-free immunizations under s. 632.865.

10          **SECTION 5.** 120.13 (2) (g) of the statutes is amended to read:

11          120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.  
12 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),  
13 632.85, 632.853, 632.855, 632.865, 632.87 (4) and (5), 632.895 (9) to (14), 632.896, and  
14 767.25 (4m) (d).

15          **SECTION 6.** 185.981 (4t) of the statutes is amended to read:

16          185.981 (4t) A sickness care plan operated by a cooperative association is  
17 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,  
18 632.853, 632.855, 632.865, 632.87 (2m), (3), (4), and (5), 632.895 (10) to (14), and  
19 632.897 (10) and chs. 149 and 155.

20          **SECTION 7.** 185.983 (1) (intro.) of the statutes is amended to read:

21          185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be  
22 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,  
23 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,  
24 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,  
25 632.855, 632.865, 632.87 (2m), (3), (4), and (5), 632.895 (5) and (9) to (14), 632.896,

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1 and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association  
2 shall:

3 **SECTION 8.** 252.04 (12) of the statutes is created to read:

4 252.04 (12) (a) In this subsection, "patient" means a person to whom a drug is  
5 administered.

6 (b) 1. Except as provided in par. (c) or (e), after the date that is 182 days after  
7 the effective date of this paragraph .... [revisor inserts date], no person may  
8 administer a vaccine that contains more than 0.5 micrograms of mercury per 0.25  
9 milliliters or per 0.25 grams of vaccine to an individual in this state.

10 2. Except as provided in par. (c) or (e), after the date that is 2 years after the  
11 effective date of this paragraph .... [revisor inserts date], no person may administer  
12 a vaccine that contains any mercury to an individual in this state.

13 (c) Paragraph (b) does not apply to administration of a vaccine if, before the  
14 vaccine is administered, the patient, or his or her parent or guardian, signs the  
15 consent form under par. (d). A person administering a vaccine under this subsection  
16 shall retain the signed consent form, or a copy of the form, in the patient's medical  
17 record.

18 (d) The department shall create and make available a form that contains all  
19 of the following statements:

20 1. The patient, or his or her parent or guardian, has been informed that a  
21 vaccine to be administered to the patient contains mercury.

22 2. The patient, or his or her parent or guardian, has been advised of all of the  
23 following:

24 a. All forms of mercury are dangerous toxins.

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1           b. Exposure to even low levels of mercury may result in irreversible systemic  
2 damage to the brain, nervous system, or other organs or systems in humans or  
3 animals.

4           c. Mercury ingestion may cause adverse behavioral or other changes.

5           3. The patient, or his or her parent or guardian, consents to the administration  
6 of the vaccine.

7           (e) Paragraph (b) does not apply to administration of a vaccine to an individual  
8 if the department orders the individual to receive the vaccination under s. 252.041  
9 (1) (a).

10          (f) The department shall test vaccines that are available in this state to  
11 determine the amount of mercury in the vaccines, and shall semiannually post the  
12 test results, in micrograms of mercury per milliliter of vaccine, on the department's  
13 Web site. The department shall identify the test results by vaccine manufacturer,  
14 product name, lot number, and lot expiration date.

15          (g) A person who knowingly violates par. (b) may be fined not more than \$500  
16 or imprisoned for not more than 30 days or both.

17          (h) A person injured as a result of a violation of par. (b) may bring a civil action  
18 for damages. The court may award the person injured as a result of a violation of par.  
19 (b) costs and reasonable attorney fees, notwithstanding the limits under s. 814.04 (1).

20          **SECTION 9.** 632.865 of the statutes is created to read:

21          **632.865 Coverage of low-mercury or mercury-free vaccines. (1)** In this  
22 section:

23          (a) "Child" means a person under 14 years of age.

24          (b) "Health care plan" has the meaning given in s. 628.36 (2) (a) 1.

25          (c) "Self-insured health plan" has the meaning given in s. 632.85 (1) (c).

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1           (2) A health care plan or a self-insured health plan that provides coverage of  
2 immunizations for children may not provide a different level of coverage for an  
3 immunization administered to a child, impose different cost-sharing requirements  
4 for an immunization administered to a child, or reimburse the cost of an  
5 immunization administered to a child at a different rate, on the basis of the amount  
6 of mercury contained in the vaccine or other product used for the immunization.

**SECTION 10. Initial applicability.**

7           (1) The treatment of sections 40.51 (8) and (8m), 66.0137 (4), 111.91 (2) (p),  
8 120.13 (2) (g), 185.981 (4t), 185.983 (1) (intro.), and 632.865 of the statutes first  
9 applies to all of the following:  
10

11           (a) Except as provided in paragraphs (b) and (c), a health care plan containing  
12 provisions that are inconsistent with the treatment of sections 40.51 (8) and (8m),  
13 66.0137 (4), 111.91 (2) (p), 120.13 (2) (g), 185.981 (4t), 185.983 (1) (intro.), and 632.865  
14 of the statutes that is renewed, and a self-insured health plan containing provisions  
15 that are inconsistent with the treatment of sections 40.51 (8) and (8m), 66.0137 (4),  
16 111.91 (2) (p), 120.13 (2) (g), 185.981 (4t), 185.983 (1) (intro.), and 632.865 of the  
17 statutes that is extended, modified, or renewed, on the effective date of this  
18 paragraph.

19           (b) A health care plan covering employees who are affected by a collective  
20 bargaining agreement containing provisions inconsistent with the treatment of  
21 sections 40.51 (8) and (8m), 66.0137 (4), 111.91 (2) (p), 120.13 (2) (g), 185.981 (4t),  
22 185.983 (1) (intro.), and 632.865 of the statutes that is issued or renewed on the  
23 earlier of the following:

24           1. The day on which the collective bargaining agreement expires.

