

# H. B. 2669

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(BY DELEGATE(S) ELLINGTON,  
HOUSEHOLDER AND PASDON)

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[Introduced February 9, 2015; referred to the  
Committee on Education; and then to  
the Committee on Health and Human Resources.]

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A BILL to amend and reenact §16-3D-2 and §16-3D-3 of the Code of West Virginia, 1931, as amended, all relating to compulsory tuberculosis testing; defining terms; removing requirement for compulsory tuberculosis testing for school children transferring from outside this state; removing the requirement for recording test results, immediate evaluations by a physician of positive reactors, and X rays upon a positive test; omitting the requirement for all school personnel to have one tuberculin test at the time of employment; and eliminating the requirement that local health

officers be responsible for arranging follow-up of school personnel and students who are not able to get a physician evaluation for a positive tuberculin skin test.

*Be it enacted by the Legislature of West Virginia:*

That §16-3D-2 and §16-3D-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 3D. TUBERCULOSIS TESTING, CONTROL, TREATMENT AND COMMITMENT.**

**§16-3D-2. Definitions.**

1 As used in this article:

2 (1) “Active Tuberculosis” or “Tuberculosis” means a  
3 communicable disease caused by the bacteria, *Mycobacterium*  
4 tuberculosis, which is demonstrated by clinical, bacteriological,  
5 radiographic or epidemiological evidence. An infected person  
6 whose tuberculosis has progressed to active disease may  
7 experience symptoms such as coughing, fever, fatigue, loss of  
8 appetite and weight loss and is capable of spreading the disease  
9 to others if the tuberculosis germs are active in the lungs or  
10 throat.

11 (2) “Bureau” means the Bureau for Public Health in the  
12 Department of Health and Human Resources;

13 (3) “Commissioner” means the Commissioner of the Bureau  
14 for Public Health, who is the state health officer;

15 (4) “Local board of health,” “local board” or “board” means  
16 a board of health serving one or more counties or one or more  
17 municipalities or a combination thereof;

18 (5) “Local health department” means the staff of the local  
19 board of health; and

20 (6) “Local health officer” means the individual physician  
21 with a current West Virginia license to practice medicine who  
22 supervises and directs the activities of the local health  
23 department services, staff and facilities and is appointed by the  
24 local board of health with approval by the commissioner.

25 (7) “Tuberculosis suspect” means a person who is suspected  
26 of having tuberculosis disease due to any or all of the following  
27 medical factors: the presence of symptoms, the result of a  
28 positive skin test, risk factors for tuberculosis, or findings on an  
29 abnormal chest x ray, during the time period when an active  
30 tuberculosis disease diagnosis is pending.

**§16-3D-3. Compulsory testing for tuberculosis of school children and school personnel; commissioner to approve the test; X rays required for reactors; suspension from school or employment for pupils and personnel found to have tuberculosis.**

1       ~~(a) All students transferring from a school located outside~~  
2       ~~this state or enrolling for the first time from outside the state~~  
3       ~~shall furnish a certification from a licensed physician stating that~~  
4       ~~a tuberculin skin test, approved by the Commissioner, has been~~  
5       ~~made within four months prior to the beginning of the school~~  
6       ~~year. If the student cannot produce certification from a physician~~  
7       ~~as required by this section then the student shall have an~~  
8       ~~approved tuberculin skin test done with the result read and~~  
9       ~~evaluated prior to admittance to school.~~

10       ~~(b) Test results must be recorded on the certification~~  
11       ~~required by subsection (a) of this section. Positive reactors to the~~  
12       ~~skin test must be immediately evaluated by a physician and, if~~  
13       ~~medically indicated, X-rayed, and receive periodic X-rays~~  
14       ~~thereafter, when medically indicated. Pupils found to have~~  
15       ~~tuberculosis shall be temporarily removed from school while~~  
16       ~~their case is reviewed and evaluated by their physician and the~~  
17       ~~local health officer. Pupils shall return to school when the local~~

18 health officer indicates that it is safe and appropriate for them to  
19 return:

20 ~~(c) Notwithstanding any other provision of this code to the~~  
21 ~~contrary, all school personnel shall have one approved tuberculin~~  
22 ~~skin test at the time of employment performed by the local~~  
23 ~~health department or the person's physician. Additional~~  
24 ~~tuberculosis skin tests or other medical screens may be required~~  
25 ~~by the local health department or Commissioner, if medically~~  
26 ~~indicated. Positive reactors and those with previous positive skin~~  
27 ~~tests are to be immediately referred to a physician for evaluation~~  
28 ~~and treatment or further studies. School personnel found to have~~  
29 ~~tuberculosis shall have their employment suspended until the~~  
30 ~~local health officer, in consultation with the Commissioner,~~  
31 ~~approves a return to work. School personnel who have not had~~  
32 ~~the required examination will be suspended from employment~~  
33 ~~until reports of examination are confirmed by the local health~~  
34 ~~officer:~~

35 (d) The local health officer shall be responsible for arranging  
36 proper follow-up of school personnel and students who are

37 ~~unable to obtain physician evaluation for a positive tuberculin~~  
38 ~~skin test.~~

39 (a) Pupils found or suspected to have active tuberculosis  
40 shall be temporarily removed from school while their case is  
41 reviewed and evaluated by their personal physician and the local  
42 health officer. Pupils shall return to school when their personal  
43 physician and the local health officer, in consultation with the  
44 commissioner, indicate that it is safe and appropriate for them to  
45 return.

46 (b) School personnel found or suspected to have active  
47 tuberculosis shall have their employment suspended until the  
48 local health officer, in consultation with the commissioner,  
49 approves a return to work.

50 ~~(e)~~ (c) The commissioner ~~shall have the authority to~~ may  
51 require selective testing of students and school personnel for  
52 tuberculosis when there is reason to believe that they may have  
53 been exposed to the tuberculosis organism or they have signs and  
54 symptoms indicative of the disease. School nurses shall identify  
55 and refer any students or school personnel to the local health  
56 ~~officer~~ department in instances where they have reason to

- 57 suspect that the individual has been exposed to tuberculosis or
- 58 has symptoms indicative of the disease.

NOTE: The purpose of this bill is to eliminate the statutory requirements for tuberculosis testing for school children and school personnel who are at low risk for tuberculosis. This type of testing is no longer recommended and the cost of conducting the testing is unjustified by the results. There has never been an active case of tuberculosis discovered through this testing.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

