



Sen. Mattie Hunter

Filed: 5/12/2009

09600HB3922sam002

LRB096 09187 RPM 26643 a

1 AMENDMENT TO HOUSE BILL 3922

2 AMENDMENT NO. _____. Amend House Bill 3922, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Department of Public Health Act is amended
6 by changing Section 2 as follows:

7 (20 ILCS 2305/2) (from Ch. 111 1/2, par. 22)

8 Sec. 2. Powers.

9 (a) The State Department of Public Health has general
10 supervision of the interests of the health and lives of the
11 people of the State. It has supreme authority in matters of
12 quarantine and isolation, and may declare and enforce
13 quarantine and isolation when none exists, and may modify or
14 relax quarantine and isolation when it has been established.
15 The Department may adopt, promulgate, repeal and amend rules
16 and regulations and make such sanitary investigations and

1 inspections as it may from time to time deem necessary for the
2 preservation and improvement of the public health, consistent
3 with law regulating the following:

4 (1) Transportation of the remains of deceased persons.

5 (2) Sanitary practices relating to drinking water made
6 accessible to the public for human consumption or for
7 lavatory or culinary purposes.

8 (3) Sanitary practices relating to rest room
9 facilities made accessible to the public or to persons
10 handling food served to the public.

11 (4) Sanitary practices relating to disposal of human
12 wastes in or from all buildings and places where people
13 live, work or assemble.

14 The provisions of the Illinois Administrative Procedure
15 Act are hereby expressly adopted and shall apply to all
16 administrative rules and procedures of the Department of Public
17 Health under this Act, except that Section 5-35 of the Illinois
18 Administrative Procedure Act relating to procedures for
19 rule-making does not apply to the adoption of any rule required
20 by federal law in connection with which the Department is
21 precluded by law from exercising any discretion.

22 All local boards of health, health authorities and
23 officers, police officers, sheriffs and all other officers and
24 employees of the state or any locality shall enforce the rules
25 and regulations so adopted and orders issued by the Department
26 pursuant to this Section.

1 The Department of Public Health shall conduct a public
2 information campaign to inform Hispanic women of the high
3 incidence of breast cancer and the importance of mammograms and
4 where to obtain a mammogram. This requirement may be satisfied
5 by translation into Spanish and distribution of the breast
6 cancer summaries required by Section 2310-345 of the Department
7 of Public Health Powers and Duties Law (20 ILCS 2310/2310-345).
8 The information provided by the Department of Public Health
9 shall include (i) a statement that mammography is the most
10 accurate method for making an early detection of breast cancer,
11 however, no diagnostic tool is 100% effective and (ii)
12 instructions for performing breast self-examination and a
13 statement that it is important to perform a breast
14 self-examination monthly.

15 The Department of Public Health shall investigate the
16 causes of dangerously contagious or infectious diseases,
17 especially when existing in epidemic form, and take means to
18 restrict and suppress the same, and whenever such disease
19 becomes, or threatens to become epidemic, in any locality and
20 the local board of health or local authorities neglect or
21 refuse to enforce efficient measures for its restriction or
22 suppression or to act with sufficient promptness or efficiency,
23 or whenever the local board of health or local authorities
24 neglect or refuse to promptly enforce efficient measures for
25 the restriction or suppression of dangerously contagious or
26 infectious diseases, the Department of Public Health may

1 enforce such measures as it deems necessary to protect the
2 public health, and all necessary expenses so incurred shall be
3 paid by the locality for which services are rendered.

4 (b) Subject to the provisions of subsection (c), the
5 Department may order a person or group of persons to be
6 quarantined or isolated or may order a place to be closed and
7 made off limits to the public to prevent the probable spread of
8 a dangerously contagious or infectious disease, including
9 non-compliant tuberculosis patients, until such time as the
10 condition can be corrected or the danger to the public health
11 eliminated or reduced in such a manner that no substantial
12 danger to the public's health any longer exists. Orders for
13 isolation of a person or quarantine of a place to prevent the
14 probable spread of a sexually transmissible disease shall be
15 governed by the provisions of Section 7 of the Illinois
16 Sexually Transmissible Disease Control Act and not this
17 Section.

18 (c) Except as provided in this Section, no person or a
19 group of persons may be ordered to be quarantined or isolated
20 and no place may be ordered to be closed and made off limits to
21 the public except with the consent of the person or owner of
22 the place or upon the prior order of a court of competent
23 jurisdiction. The Department may, however, order a person or a
24 group of persons to be quarantined or isolated or may order a
25 place to be closed and made off limits to the public on an
26 immediate basis without prior consent or court order if, in the

1 reasonable judgment of the Department, immediate action is
2 required to protect the public from a dangerously contagious or
3 infectious disease. In the event of an immediate order issued
4 without prior consent or court order, the Department shall, as
5 soon as practical, within 48 hours after issuing the order,
6 obtain the consent of the person or owner or file a petition
7 requesting a court order authorizing the isolation or
8 quarantine or closure. When exigent circumstances exist that
9 cause the court system to be unavailable or that make it
10 impossible to obtain consent or file a petition within 48 hours
11 after issuance of an immediate order, the Department must
12 obtain consent or file a petition requesting a court order as
13 soon as reasonably possible. To obtain a court order, the
14 Department, by clear and convincing evidence, must prove that
15 the public's health and welfare are significantly endangered by
16 a person or group of persons that has, that is suspected of
17 having, that has been exposed to, or that is reasonably
18 believed to have been exposed to a dangerously contagious or
19 infectious disease including non-compliant tuberculosis
20 patients or by a place where there is a significant amount of
21 activity likely to spread a dangerously contagious or
22 infectious disease. The Department must also prove that all
23 other reasonable means of correcting the problem have been
24 exhausted and no less restrictive alternative exists. For
25 purposes of this subsection, in determining whether no less
26 restrictive alternative exists, the court shall consider

1 evidence showing that, under the circumstances presented by the
2 case in which an order is sought, quarantine or isolation is
3 the measure provided for in a rule of the Department or in
4 guidelines issued by the Centers for Disease Control and
5 Prevention or the World Health Organization. Persons who are or
6 are about to be ordered to be isolated or quarantined and
7 owners of places that are or are about to be closed and made
8 off limits to the public shall have the right to counsel. If a
9 person or owner is indigent, the court shall appoint counsel
10 for that person or owner. Persons who are ordered to be
11 isolated or quarantined or who are owners of places that are
12 ordered to be closed and made off limits to the public, shall
13 be given a written notice of such order. The written notice
14 shall additionally include the following: (1) notice of the
15 right to counsel; (2) notice that if the person or owner is
16 indigent, the court will appoint counsel for that person or
17 owner; (3) notice of the reason for the order for isolation,
18 quarantine, or closure; (4) notice of whether the order is an
19 immediate order, and if so, the time frame for the Department
20 to seek consent or to file a petition requesting a court order
21 as set out in this subsection; and (5) notice of the
22 anticipated duration of the isolation, quarantine, or closure.

23 (d) The Department may order physical examinations and
24 tests and collect laboratory specimens as necessary for the
25 diagnosis or treatment of individuals in order to prevent the
26 probable spread of a dangerously contagious or infectious

1 disease. Physical examinations, tests, or collection of
2 laboratory specimens must not be such as are reasonably likely
3 to lead to serious harm to the affected individual. To prevent
4 the spread of a dangerously contagious or infectious disease,
5 the Department may, pursuant to the provisions of subsection
6 (c) of this Section, isolate or quarantine any person whose
7 refusal of physical examination or testing or collection of
8 laboratory specimens results in uncertainty regarding whether
9 he or she has been exposed to or is infected with a dangerously
10 contagious or infectious disease or otherwise poses a danger to
11 the public's health. An individual may refuse to consent to a
12 physical examination, test, or collection of laboratory
13 specimens. An individual shall be given a written notice that
14 shall include notice of the following: (i) that the individual
15 may refuse to consent to physical examination, test, or
16 collection of laboratory specimens; (ii) that if the individual
17 consents to physical examination, tests, or collection of
18 laboratory specimens, the results of that examination, test, or
19 collection of laboratory specimens may subject the individual
20 to isolation or quarantine pursuant to the provisions of
21 subsection (c) of this Section; (iii) that if the individual
22 refuses to consent to physical examination, tests, or
23 collection of laboratory specimens and that refusal results in
24 uncertainty regarding whether he or she has been exposed to or
25 is infected with a dangerously contagious or infectious disease
26 or otherwise poses a danger to the public's health, the

1 individual may be subject to isolation or quarantine pursuant
2 to the provisions of subsection (c) of this Section; and (iv)
3 that if the individual refuses to consent to physical
4 examinations, tests, or collection of laboratory specimens and
5 becomes subject to isolation and quarantine as provided in this
6 subsection (d), he or she shall have the right to counsel
7 pursuant to the provisions of subsection (c) of this Section.
8 To the extent feasible without endangering the public's health,
9 the Department shall respect and accommodate the religious
10 beliefs of individuals in implementing this subsection.

11 (e) The Department may order the administration of
12 vaccines, medications, or other treatments to persons as
13 necessary in order to prevent the probable spread of a
14 dangerously contagious or infectious disease. A vaccine,
15 medication, or other treatment to be administered must not be
16 such as is reasonably likely to lead to serious harm to the
17 affected individual. To prevent the spread of a dangerously
18 contagious or infectious disease, the Department may, pursuant
19 to the provisions of subsection (c) of this Section, isolate or
20 quarantine persons who are unable or unwilling to receive
21 vaccines, medications, or other treatments pursuant to this
22 Section. An individual may refuse to receive vaccines,
23 medications, or other treatments. An individual shall be given
24 a written notice that shall include notice of the following:
25 (i) that the individual may refuse to consent to vaccines,
26 medications, or other treatments; (ii) that if the individual

1 refuses to receive vaccines, medications, or other treatments,
2 the individual may be subject to isolation or quarantine
3 pursuant to the provisions of subsection (c) of this Section;
4 and (iii) that if the individual refuses to receive vaccines,
5 medications, or other treatments and becomes subject to
6 isolation or quarantine as provided in this subsection (e), he
7 or she shall have the right to counsel pursuant to the
8 provisions of subsection (c) of this Section. To the extent
9 feasible without endangering the public's health, the
10 Department shall respect and accommodate the religious beliefs
11 of individuals in implementing this subsection.

12 (f) The Department may order observation and monitoring of
13 persons to prevent the probable spread of a dangerously
14 contagious or infectious disease. To prevent the spread of a
15 dangerously contagious or infectious disease, the Department
16 may, pursuant to the provisions of subsection (c) of this
17 Section, isolate or quarantine persons whose refusal to undergo
18 observation and monitoring results in uncertainty regarding
19 whether he or she has been exposed to or is infected with a
20 dangerously contagious or infectious disease or otherwise
21 poses a danger to the public's health. An individual may refuse
22 to undergo observation and monitoring. An individual shall be
23 given written notice that shall include notice of the
24 following: (i) that the individual may refuse to undergo
25 observation and monitoring; (ii) that if the individual
26 consents to observation and monitoring, the results of that

1 observation and monitoring may subject the individual to
2 isolation or quarantine pursuant to the provisions of
3 subsection (c) of this Section; (iii) that if the individual
4 refuses to undergo observation and monitoring and that refusal
5 results in uncertainty regarding whether he or she has been
6 exposed to or is infected with a dangerously contagious or
7 infectious disease or otherwise poses a danger to the public's
8 health, the individual may be subject to isolation or
9 quarantine pursuant to the provisions of subsection (c) of this
10 Section; and (iv) that if the individual refuses to undergo
11 observation and monitoring and becomes subject to isolation or
12 quarantine as provided in this subsection (f), he or she shall
13 have the right to counsel pursuant to the provisions of
14 subsection (c) of this Section.

15 (g) To prevent the spread of a dangerously contagious or
16 infectious disease among humans, the Department may examine,
17 test, disinfect, seize, or destroy animals or other related
18 property believed to be sources of infection. An owner of such
19 animal or other related property shall be given written notice
20 regarding such examination, testing, disinfection, seizure, or
21 destruction. When the Department determines that any animal or
22 related property is infected with or has been exposed to a
23 dangerously contagious or infectious disease, it may agree with
24 the owner upon the value of the animal or of any related
25 property that it may be found necessary to destroy, and in case
26 such an agreement cannot be made, the animals or related

1 property shall be appraised by 3 competent and disinterested
2 appraisers, one to be selected by the Department, one by the
3 claimant, and one by the 2 appraisers thus selected. The
4 appraisers shall subscribe to an oath made in writing to fairly
5 value the animals or related property in accordance with the
6 requirements of this Act. The oath, together with the valuation
7 fixed by the appraisers, shall be filed with the Department and
8 preserved by it. Upon the appraisal being made, the owner or
9 the Department shall immediately destroy the animals by "humane
10 euthanasia" as that term is defined in Section 2.09 of the
11 Humane Care for Animals Act. Dogs and cats, however, shall be
12 euthanized pursuant to the provisions of the Humane Euthanasia
13 in Animal Shelters Act. The owner or the Department shall
14 additionally, dispose of the carcasses, and disinfect, change,
15 or destroy the premises occupied by the animals, in accordance
16 with rules prescribed by the Department governing such
17 destruction and disinfection. Upon his or her failure so to do
18 or to cooperate with the Department, the Department shall cause
19 the animals or related property to be destroyed and disposed of
20 in the same manner, and thereupon the owner shall forfeit all
21 right to receive any compensation for the destruction of the
22 animals or related property. All final administrative
23 decisions of the Department hereunder shall be subject to
24 judicial review pursuant to the provisions of the
25 Administrative Review Law, and all amendments and
26 modifications thereof, and the rules adopted pursuant thereto.

1 The term "administrative decision" is defined as in Section
2 3-101 of the Code of Civil Procedure.

3 (h) To prevent the spread of a dangerously contagious or
4 infectious disease, the Department, local boards of health, and
5 local public health authorities shall have emergency access to
6 medical or health information or records or data upon the
7 condition that the Department, local boards of health, and
8 local public health authorities shall protect the privacy and
9 confidentiality of any medical or health information or records
10 or data obtained pursuant to this Section in accordance with
11 federal and State law. Additionally, any such medical or health
12 information or records or data shall be exempt from inspection
13 and copying under the Freedom of Information Act. Other than a
14 hearing for the purpose of this Act, any information, records,
15 reports, statements, notes, memoranda, or other data in the
16 possession of the Department, local boards of health, or local
17 public health authorities shall not be admissible as evidence,
18 nor discoverable in any action of any kind in any court or
19 before any tribunal, board, agency, or person. The access to or
20 disclosure of any of this information or data by the
21 Department, a local board of health, or a local public
22 authority shall not waive or have any effect upon its
23 non-discoverability or non-admissibility. Any person,
24 facility, institution, or agency that provides emergency
25 access to health information and data under this subsection
26 shall have immunity from any civil or criminal liability, or

1 any other type of liability that might otherwise result by
2 reason of these actions except in the event of willful and
3 wanton misconduct. The privileged quality of communication
4 between any professional person or any facility shall not
5 constitute grounds for failure to provide emergency access.
6 Nothing in this subsection shall prohibit the sharing of
7 information as authorized in Section 2.1 of this Act. The
8 disclosure of any of this information, records, reports,
9 statements, notes, memoranda, or other data obtained in any
10 activity under this Act, except that necessary for the purposes
11 of this Act, is unlawful, and any person convicted of violating
12 this provision is guilty of a Class A misdemeanor.

13 (i) (A) The Department, in order to prevent and control
14 disease, injury, or disability among citizens of the State
15 of Illinois, may develop and implement, in consultation
16 with local public health authorities, a Statewide system
17 for syndromic data collection through the access to
18 interoperable networks, information exchanges, and
19 databases. The Department may also develop a system for the
20 reporting of comprehensive, integrated data to identify
21 and address unusual occurrences of disease symptoms and
22 other medical complexes affecting the public's health.

23 (B) The Department may enter into contracts or
24 agreements with individuals, corporations, hospitals,
25 universities, not-for-profit corporations, governmental
26 entities, or other organizations, whereby those

1 individuals or entities agree to provide assistance in the
2 compilation of the syndromic data collection and reporting
3 system.

4 (C) The Department shall not release any syndromic data
5 or information obtained pursuant to this subsection to any
6 individuals or entities for purposes other than the
7 protection of the public health. All access to data by the
8 Department, reports made to the Department, the identity of
9 or facts that would tend to lead to the identity of the
10 individual who is the subject of the report, and the
11 identity of or facts that would tend to lead to the
12 identity of the author of the report shall be strictly
13 confidential, are not subject to inspection or
14 dissemination, and shall be used only for public health
15 purposes by the Department, local public health
16 authorities, or the Centers for Disease Control and
17 Prevention. Entities or individuals submitting reports or
18 providing access to the Department shall not be held liable
19 for the release of information or confidential data to the
20 Department in accordance with this subsection.

21 (D) Nothing in this subsection prohibits the sharing of
22 information as authorized in Section 2.1 of this Act.

23 (j) This Section shall be considered supplemental to the
24 existing authority and powers of the Department and shall not
25 be construed to restrain or restrict the Department in
26 protecting the public health under any other provisions of the

1 law.

2 (k) Any person who knowingly or maliciously disseminates
3 any false information or report concerning the existence of any
4 dangerously contagious or infectious disease in connection
5 with the Department's power of quarantine, isolation and
6 closure or refuses to comply with a quarantine, isolation or
7 closure order is guilty of a Class A misdemeanor.

8 (l) The Department of Public Health may establish and
9 maintain a chemical and bacteriologic laboratory for the
10 examination of water and wastes, and for the diagnosis of
11 diphtheria, typhoid fever, tuberculosis, malarial fever and
12 such other diseases as it deems necessary for the protection of
13 the public health.

14 As used in this Act, "locality" means any governmental
15 agency which exercises power pertaining to public health in an
16 area less than the State.

17 The terms "sanitary investigations and inspections" and
18 "sanitary practices" as used in this Act shall not include or
19 apply to "Public Water Supplies" or "Sewage Works" as defined
20 in the Environmental Protection Act. The Department may adopt
21 rules that are reasonable and necessary to implement and
22 effectuate this amendatory Act of the 93rd General Assembly.

23 (m) The public health measures set forth in subsections (a)
24 through (h) of this Section may be used by the Department to
25 respond to chemical, radiological, or nuclear agents or events.
26 The individual provisions of subsections (a) through (h) of

1 this Section apply to any order issued by the Department under
2 this Section. The provisions of subsection (k) apply to
3 chemical, radiological, or nuclear agents or events. Prior to
4 the Department issuing an order for public health measures set
5 forth in this Act for chemical, radiological, or nuclear agents
6 or events as authorized in subsection (m), the Department and
7 the Illinois Emergency Management Agency shall consult in
8 accordance with the Illinois emergency response framework.
9 When responding to chemical, radiological, or nuclear agents or
10 events, the Department shall determine the health related risks
11 and appropriate public health response measures and provide
12 recommendations for response to the Illinois Emergency
13 Management Agency. Nothing in this Section shall supersede the
14 current National Incident Management System and the Illinois
15 Emergency Operation Plan or response plans and procedures
16 established pursuant to IEMA statutes.

17 (Source: P.A. 93-829, eff. 7-28-04.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law."