

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

581P0475

## HOUSE BILL NO. 1165

Introduced by: Representatives Ahlers, Elliott, Engels, Feinstein, Gassman, Gillespie, Hunt, Lucas, McLaughlin, Nygaard, Olson (Betty), Rave, and Van Norman and Senators Katus, Gant, Heidepriem, Jerstad, Sutton, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to prohibit certain immunizations from containing more  
2 than trace amounts of mercury.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. No early childhood immunization or immunization for a pregnant woman may  
5 be administered in this state that contains more than trace amounts of mercury or preservatives  
6 containing mercury, including Thimerosal.

7 Section 2. For the purposes of this Act, the term, early childhood immunization, means any  
8 immunization administered to a child under eight years of age.

9 Section 3. For the purposes of this Act, the term, trace amounts, means any amount less than  
10 0.5 microgram of mercury per 0.5 milliliter dose of vaccine.

11 Section 4. Any insurer that provides full or partial coverage for any early childhood  
12 immunization or any immunization for a pregnant woman shall only reimburse for any  
13 immunization that does not contain any mercury or that contains trace amounts of mercury or  
14 preservatives containing mercury, including Thimerosal. Any reimbursement shall be at the



1 same percentage rate as the usual and customary charges which are provided for immunizations.

2 Section 5. If a physician administers an immunization in violation of this Act and as a result  
3 any insurer refuses to cover the claim on behalf of the patient, then the administering physician  
4 is responsible for the cost of the immunization and the service cost to administer the  
5 immunization.

6 Section 6. The secretary of health, with the consent of the Governor, may allow the  
7 administration of any immunization prohibited by this Act if the secretary finds the existence  
8 of a public health emergency as defined by § 34-22-41 that makes necessary the administration  
9 of an immunization containing more than trace amounts of mercury.