

The House Committee on Health & Human Services offers the following substitute to SB 333:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 provide for a vaccination program for emergency responders who may be exposed to
3 infectious diseases when deployed to a disaster location; to provide for definitions of certain
4 terms; to provide for application for federal funding and implementation of a vaccination
5 program contingent upon such funding; to provide immunity for certain hospitals, their
6 agents or employees, health care providers, health care workers, and certain other persons
7 participating in the federal smallpox vaccination and treatment program; to provide for
8 legislative findings; to provide for applicability; to provide for related matters; to provide for
9 effective dates; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by
13 designating the current contents of Article 1 of Chapter 35, relating to vaccinations for
14 firefighters, emergency medical technicians, and public safety officers, consisting of Code
15 Sections 31-35-1 through 31-35-3 and inserting a new Article 2 to read as follows:

16 "ARTICLE 2

17 31-35-10.

18 As used in this article, the term:

19 (1) 'Bioterrorism' means the intentional use, to cause or attempt to cause death, disease,
20 or other biological malfunction in any living organism, of any of the following:

21 (A) Microorganism;

22 (B) Virus;

23 (C) Infectious substance; or

1 (D) Biological product that may be engineered as a result of biotechnology or any
2 naturally occurring or bioengineered component of any microorganism, virus,
3 infectious substance, or biological product.

4 (2) 'Commissioner' means the commissioner of human resources.

5 (3) 'Department' means the Department of Human Resources.

6 (4) 'Disaster location' means any geographical location where a bioterrorism attack,
7 terrorist attack, catastrophic event, natural disaster, or emergency occurs.

8 (5) 'Emergency responder' means any person employed as state or local law enforcement
9 personnel, fire department personnel, corrections officers, or emergency medical
10 personnel who may be deployed to a bioterrorism attack, terrorist attack, catastrophic
11 event, natural disaster, or emergency.

12 31-35-11.

13 (a) The department shall offer a vaccination program for emergency responders who may
14 be exposed to infectious diseases when deployed to a disaster location. The program shall
15 include diseases for which vaccinations are recommended by the United States Public
16 Health Service and in accordance with the Federal Emergency Management Directors
17 Policy and may include, but not be limited to, vaccinations for hepatitis A, hepatitis B,
18 diphtheria-tetanus, influenza, and pneumococcal.

19 (b) An emergency responder shall be exempt from vaccination when a written statement
20 from a licensed physician is presented to the department indicating that a vaccine is
21 medically contraindicated for that person or the emergency responder signs a written
22 statement that the administration of a vaccination conflicts with his or her personal choice
23 or religious beliefs.

24 (c) In the event of a vaccine shortage, the commissioner, in consultation with the Governor
25 and the federal Centers for Disease Control and Prevention, shall use federal
26 recommendations to determine the priority for vaccinations for emergency responders.

27 (d) The department shall notify emergency responders of the availability of the vaccination
28 program and the risks associated with such vaccinations and shall provide educational
29 materials to emergency responders on ways to prevent exposure to infectious diseases.

30 (e) The department may contract with county and local health departments, not for profit
31 home health care agencies, hospitals, physicians, or other licensed health care organizations
32 to administer the vaccination program for emergency responders.

33 (f) The vaccination program established pursuant to this article shall be implemented only
34 upon receipt of federal funding or grants for aid available and approved for purposes under
35 this article.

1 (g) The department shall take all necessary steps to apply for federal funding to implement
2 the vaccination program under this article including use of an expedited application
3 procedure if circumstances require such. The department shall also amend the state plan
4 if necessary to meet federal funding requirements."

5 SECTION 2.

6 Said title is further amended by adding following Code Section 31-12-4, relating to isolation
7 and segregation of diseased persons and quarantine, a new Code section to read as follows:
8 "31-12-4.1.

9 (a) The Georgia General Assembly makes the following findings: The attacks of
10 September and October, 2001, on the United States have heightened concerns that terrorists
11 may have access to the smallpox virus and may attempt to use it against the American
12 public. In light of these concerns, and in order to secure public health and national
13 security, the United States government has launched, and the State of Georgia has
14 cooperated in, a smallpox vaccination and treatment program, with a recommendation for
15 initial smallpox vaccinations for certain hospitals, health care workers, and emergency
16 response workers. However, due to the virulent nature of smallpox and its vaccine,
17 participation by hospitals and health care workers in such a program potentially increases
18 their exposure to liability that, without sufficient legal protections, may significantly
19 discourage their participation in the program. The federal government has determined, and
20 the General Assembly agrees, that liability protection for those hospitals and health care
21 workers who participate in such programs are integral to ensuring its maximum success.
22 Accordingly, to achieve a potent and widespread smallpox vaccination and treatment
23 program and maintain an effective defense against possible terrorist attacks, it is critical
24 that hospitals and health care workers participating in such program be protected from
25 potential legal liability absent their gross negligence or willful or wanton misconduct. The
26 General Assembly therefore concludes that certain steps must be taken to encourage
27 participation in the smallpox vaccination and treatment program in order to reserve to
28 Georgia citizens continued access to smallpox vaccination and treatment services in the
29 event of a terrorist attack.

30 (b) Without waiving or affecting and cumulative of any existing immunity from any
31 source, unless it is established that injuries or death were caused by gross negligence or
32 willful or wanton misconduct:

33 (1) No licensed hospital which participates in a smallpox vaccination and treatment
34 program authorized by the United States Secretary of Health and Human Services or the
35 United States Public Health Service of the State of Georgia or employees, agents, or
36 health care workers of such hospital; and

1 (2) No licensed health care provider, health care worker, or other person who participates
2 in such smallpox vaccination and treatment program, whether or not such provider,
3 workers, or person is an agent or employee of said hospital
4 shall be liable for damages or injuries alleged to have been sustained by any individual by
5 reason of such individual's receipt of a smallpox vaccination or treatment, such
6 individual's exposure to smallpox or its related infections, or any act or omission
7 committed by said hospital, employee, agent, health care provider, health care worker, or
8 other person as a result of such individual's receipt of services from or related to such
9 smallpox vaccination and treatment program.

10 (c) This Code section shall apply only to causes of action arising on or after the effective
11 date of this Code section."

12 **SECTION 3.**

13 Section 1 of this Act shall become effective July 1, 2003. The remaining sections of this Act
14 shall become effective upon its approval by the Governor or upon its becoming law without
15 such approval.

16 **SECTION 4.**

17 All laws and parts of laws in conflict with this Act are repealed.