

House Bill 372 (AS PASSED HOUSE AND SENATE)

By: Representatives Dodson of the 84<sup>th</sup>, Post 1, Buckner of the 109<sup>th</sup>, Mosby of the 59<sup>th</sup>, Post 3, and Stephenson of the 60<sup>th</sup>, Post 1

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 change certain provisions relating to adoption of health regulations; to provide for financial  
3 assistance to students, postgraduate trainees, or the parents of such for programs of study in  
4 fields in which critical personnel shortages exist in the authority's service area; to provide  
5 for legislative findings; to provide for immunity for certain hospitals, their agents or  
6 employees, health care providers, health care workers, and certain other persons participating  
7 in the federal smallpox vaccination and treatment program; to provide for applicability; to  
8 provide for a vaccination program for emergency responders who may be exposed to  
9 infectious diseases when deployed to a disaster location; to provide for definitions of certain  
10 terms; to provide for application for federal funding and implementation of a vaccination  
11 program contingent upon such funding; to provide for related matters; to provide for  
12 effective dates; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 style="text-align:center">**SECTION 1.**

15 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by striking  
16 subsection (a) of Code Section 31-2-4, relating to rules and regulations of the Department  
17 of Human Resources, variances and waivers to rules and regulations establishing licensure  
18 standards for facilities, and exemption of classes of facilities from regulation, and inserting  
19 in lieu thereof the following:

20 "(a) The department is authorized to adopt and promulgate rules and regulations to effect  
21 prevention, abatement, and correction of situations and conditions which, if not promptly  
22 checked, would militate against the health of the people of this state. Such rules and  
23 regulations ~~must~~ shall be adapted to the purposes intended ~~and be~~, within the purview of  
24 the powers and duties imposed upon the department by this chapter, and supersede  
25 conflicting rules, regulations, and orders adopted pursuant to the authority of Chapter 3 of  
26 this title."



1 program and maintain an effective defense against possible terrorist attacks, it is critical  
 2 that hospitals and health care workers participating in such program be protected from  
 3 potential legal liability absent their gross negligence or willful or wanton misconduct. The  
 4 General Assembly therefore concludes that certain steps must be taken to encourage  
 5 participation in the smallpox vaccination and treatment program in order to reserve to  
 6 Georgia citizens continued access to smallpox vaccination and treatment services in the  
 7 event of a terrorist attack.

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

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

15 (2) No licensed health care provider, health care worker, or other person who participates  
 16 in such smallpox vaccination and treatment program, whether or not such provider,  
 17 workers, or person is an agent or employee of said hospital  
 18 shall be liable for damages or injuries alleged to have been sustained by any individual by  
 19 reason of such individual's receipt of a smallpox vaccination or treatment, such  
 20 individual's exposure to smallpox or its related infections, or any act or omission  
 21 committed by said hospital, employee, agent, health care provider, health care worker, or  
 22 other person as a result of such individual's receipt of services from or related to such  
 23 smallpox vaccination and treatment program.

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

#### 26 SECTION 4.

27 Said title is further amended by designating the current contents of Article 1 of Chapter 35,  
 28 relating to vaccinations for firefighters, emergency medical technicians, and public safety  
 29 officers, consisting of Code Sections 31-35-1 through 31-35-3 and inserting a new Article  
 30 2 to read as follows:

#### 31 "ARTICLE 2

32 31-35-10.

33 As used in this article, the term:

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

3 (A) Microorganism;

4 (B) Virus;

5 (C) Infectious substance; or

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

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

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

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

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

17 31-35-11.

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

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

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

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

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

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

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

11 **SECTION 5.**

12 Section 4 of this Act shall become effective July 1, 2003. The remaining sections of this Act  
13 shall become effective upon its approval by the Governor or upon its becoming law without  
14 such approval.

15 **SECTION 6.**

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