AN ACT

To repeal section 376.1199, RSMo, and to enact in lieu thereof two new sections relating to the protection of the religious beliefs and moral convictions of certain persons and entities, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 376.1199, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 191.724 and 376.1199, to read as follows:

191.724. 1. The rights guaranteed under this section are in addition to the rights guaranteed under section 376.805, relating to health plan coverage of abortion, and section 376.1199, relating to health plan coverage of certain obstetrical and gynecological benefits and pharmaceutical coverage.

2. No employee, self-employed person, or any other person shall be compelled to obtain coverage for, or be discriminated against or penalized for declining or refusing coverage for, abortion, contraception, or sterilization in a health plan if such items or procedures are contrary to the religious beliefs or moral convictions of such employee or person.

3. No employer, health plan provider, health plan sponsor, health care provider, or any other person or entity shall be compelled to

EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.
provide coverage for, or be discriminated against or penalized for
deciding or refusing coverage for, abortion, contraception, or
sterilization in a health plan if such items or procedures are contrary
to the religious beliefs or moral convictions of such employer, health
plan provider, health plan sponsor, health care provider, person, or
entity.

4. No governmental entity, public official, or entity acting in a
governmental capacity shall discriminate against or penalize an
employee, self-employed person, employer, health plan provider, health
plan sponsor, health care provider, or any other person or entity
because of such employee's, self-employed person's, employer's, health
plan provider's, health plan sponsor's, health care provider's, or other
person's or entity's unwillingness, based on religious beliefs or moral
convictions, to obtain or provide coverage for, pay for, participate in,
or refer for, abortion, contraception, or sterilization in a health plan.

5. Whenever the attorney general has a reasonable cause to
believe that any person or entity or group of persons or entities is
being, has been, or is threatened to be denied any of the rights granted
by this section or other law that protects the religious beliefs or moral
convictions of such persons or entities, and such denial raises an issue
of general public importance, the attorney general may bring a civil
action in any appropriate state or federal court. Such complaint shall
set forth the facts and request such appropriate relief, including, but
not limited to, an application for a permanent or temporary injunction,
restraining order, mandamus, an order under the federal
Administrative Procedure Act, Religious Freedom Restoration Act, or
other federal law, an order under section 1.302 relating to free exercise
of religion, or other order against the governmental entity, public
official, or entity acting in a governmental capacity responsible for
such denial or threatened denial of rights, as the attorney general
deems necessary to ensure the full enjoyment of the rights granted by
law. Nothing contained herein shall preclude a private cause of action
against a governmental entity, public official, or entity acting in a
governmental capacity by any person or entity or group of persons or
entities aggrieved by a violation of this section or other law that protects the religious beliefs or moral convictions of such persons or entities, or be considered a limitation on any other remedy permitted by law. A court may order any appropriate relief, including recovery of damages, payment of reasonable attorney's fees, costs, and expenses.

6. For purposes of this section, "sterilization" shall mean any elective medical procedure for which the sole purpose is to make an individual incapable of reproduction.

376.1199. 1. Each health carrier or health benefit plan that offers or issues health benefit plans providing obstetrical/gynecological benefits and pharmaceutical coverage, which are delivered, issued for delivery, continued or renewed in this state on or after January 1, 2002, shall:

(1) Notwithstanding the provisions of subsection 4 of section 354.618, provide enrollees with direct access to the services of a participating obstetrician, participating gynecologist or participating obstetrician/gynecologist of her choice within the provider network for covered services. The services covered by this subdivision shall be limited to those services defined by the published recommendations of the accreditation council for graduate medical education for training an obstetrician, gynecologist or obstetrician/gynecologist, including but not limited to diagnosis, treatment and referral for such services. A health carrier shall not impose additional co-payments, coinsurance or deductibles upon any enrollee who seeks or receives health care services pursuant to this subdivision, unless similar additional co-payments, coinsurance or deductibles are imposed for other types of health care services received within the provider network. Nothing in this subsection shall be construed to require a health carrier to perform, induce, pay for, reimburse, guarantee, arrange, provide any resources for or refer a patient for an abortion, as defined in section 188.015, other than a spontaneous abortion or to prevent the death of the female upon whom the abortion is performed, or to supersede or conflict with section 376.805; and

(2) Notify enrollees annually of cancer screenings covered by the enrollees' health benefit plan and the current American Cancer Society guidelines for all cancer screenings or notify enrollees at intervals consistent with current American Cancer Society guidelines of cancer screenings which are covered by the enrollees' health benefit plans. The notice shall be delivered by mail unless the
enrollee and health carrier have agreed on another method of notification; and

(3) Include coverage for services related to diagnosis, treatment and appropriate management of osteoporosis when such services are provided by a person licensed to practice medicine and surgery in this state, for individuals with a condition or medical history for which bone mass measurement is medically indicated for such individual. In determining whether testing or treatment is medically appropriate, due consideration shall be given to peer-reviewed medical literature. A policy, provision, contract, plan or agreement may apply to such services the same deductibles, coinsurance and other limitations as apply to other covered services; and

(4) If the health benefit plan also provides coverage for pharmaceutical benefits, provide coverage for contraceptives either at no charge or at the same level of deductible, coinsurance or co-payment as any other covered drug. No such deductible, coinsurance or co-payment shall be greater than any drug on the health benefit plan's formulary. As used in this section, "contraceptive" shall include all prescription drugs and devices approved by the federal Food and Drug Administration for use as a contraceptive, but shall exclude all drugs and devices that are intended to induce an abortion, as defined in section 188.015, which shall be subject to section 376.805. Nothing in this subdivision shall be construed to exclude coverage for prescription contraceptive drugs or devices ordered by a health care provider with prescriptive authority for reasons other than contraceptive or abortion purposes.

2. For the purposes of this section, "health carrier" and "health benefit plan" shall have the same meaning as defined in section 376.1350.

3. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance, financial institutions and professional registration.

4. Notwithstanding the provisions of subdivision (4) of subsection 1 of this section to the contrary:

(1) Any health carrier [may] shall offer and issue to any person or
entity purchasing a health benefit plan, a health benefit plan that excludes
coverage for contraceptives if the use or provision of such contraceptives is
contrary to the moral, ethical or religious beliefs or tenets of such person or
entity;

(2) Upon request of an enrollee who is a member of a group health benefit
plan and who states that the use or provision of contraceptives is contrary to his
or her moral, ethical or religious beliefs, any health carrier shall issue to or on
behalf of such enrollee a policy form that excludes coverage for
contraceptives. Any administrative costs to a group health benefit plan
associated with such exclusion of coverage not offset by the decreased costs of
providing coverage shall be borne by the group policyholder or group plan holder;

(3) Any health carrier which is owned, operated or controlled in
substantial part by an entity that is operated pursuant to moral, ethical or
religious tenets that are contrary to the use or provision of contraceptives shall
be exempt from the provisions of subdivision (4) of subsection 1 of this
section. For purposes of this subsection, if new premiums are charged for a
contract, plan or policy, it shall be determined to be a new contract, plan or
policy.

5. Except for a health carrier that is exempted from providing coverage
for contraceptives pursuant to this section, a health carrier shall allow enrollees
in a health benefit plan that excludes coverage for contraceptives pursuant to
subsection 4 of this section to purchase a health benefit plan that includes
coverage for contraceptives.

6. Any health benefit plan issued pursuant to subsection 1 of this section
shall provide clear and conspicuous written notice on the enrollment form or any
accompanying materials to the enrollment form and the group health benefit plan
application and contract:

(1) Whether coverage for contraceptives is or is not included;

(2) That an enrollee who is a member of a group health benefit plan with
coverage for contraceptives has the right to exclude coverage for contraceptives
if such coverage is contrary to his or her moral, ethical or religious beliefs; [and]

(3) That an enrollee who is a member of a group health benefit plan
without coverage for contraceptives has the right to purchase coverage for
contraceptives;
(4) Whether an optional rider for elective abortions has been purchased by the group contract holder pursuant to section 376.805; and

(5) That an enrollee who is a member of a group health plan with coverage for elective abortions has the right to exclude and not pay for coverage for elective abortions if such coverage is contrary to his or her moral, ethical, or religious beliefs. For purposes of this subsection, if new premiums are charged for a contract, plan, or policy, it shall be determined to be a new contract, plan, or policy.

7. Health carriers shall not disclose to the person or entity who purchased the health benefit plan the names of enrollees who exclude coverage for contraceptives in the health benefit plan or who purchase a health benefit plan that includes coverage for contraceptives. Health carriers and the person or entity who purchased the health benefit plan shall not discriminate against an enrollee because the enrollee excluded coverage for contraceptives in the health benefit plan or purchased a health benefit plan that includes coverage for contraceptives.

8. The departments of health and senior services and insurance, financial institutions and professional registration may promulgate rules necessary to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to this section shall become effective unless it has been promulgated pursuant to chapter 536. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

Section B. Because immediate action is necessary to preserve the religious freedom and moral convictions of persons and entities who provide or obtain health plans or health care for themselves, their employees, patients or others, and because certain actions by the federal government threaten the obtaining or
providing of such health plans and health care as of August 1, 2012, the
enactment of section 191.724 of this act is deemed necessary for the immediate
preservation of the public health, welfare, peace and safety, and is hereby
declared to be an emergency act within the meaning of the constitution, and the
enactment of section 191.724 of this act shall be in full force and effect upon its
passage and approval.