

# SENATE BILL NO. 1085

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRATTIN.

3265S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 67.308, 167.181, 210.003, and 213.055, RSMo, and to enact in lieu thereof five new sections relating to COVID-19 vaccination mandates, with an emergency clause.

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

Section A. Sections 67.308, 167.181, 210.003, and  
2 213.055, RSMo, are repealed and five new sections enacted in  
3 lieu thereof, to be known as sections 67.308, 167.181, 174.336,  
4 210.003, and 213.055, to read as follows:

67.308. No [county, city, town or village] **public or**  
2 **private entity** in this state receiving public funds **or any**  
3 **other public accommodation** shall require documentation of an  
4 individual having received a vaccination against COVID-19 in  
5 order for the individual to access transportation systems  
6 [or], **facilities**, services, or any other public  
7 accommodations. **As used in this section, public**  
8 **accommodation shall have the same meaning as "places of**  
9 **public accommodation" in section 213.010.**

167.181. 1. The department of health and senior  
2 services, after consultation with the department of  
3 elementary and secondary education, shall promulgate rules  
4 and regulations governing the immunization against  
5 poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis,  
6 diphtheria, and hepatitis B, to be required of children  
7 attending public, private, parochial or parish schools.  
8 Such rules and regulations may modify the immunizations that

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

9 are required of children in this subsection. The  
10 immunizations required and the manner and frequency of their  
11 administration shall conform to recognized standards of  
12 medical practice. The department of health and senior  
13 services shall supervise and secure the enforcement of the  
14 required immunization program.

15 2. It is unlawful for any student to attend school  
16 unless he has been immunized as required under the rules and  
17 regulations of the department of health and senior services,  
18 and can provide satisfactory evidence of such immunization;  
19 except that if he produces satisfactory evidence of having  
20 begun the process of immunization, he may continue to attend  
21 school as long as the immunization process is being  
22 accomplished in the prescribed manner. It is unlawful for  
23 any parent or guardian to refuse or neglect to have his  
24 child immunized as required by this section, unless the  
25 child is properly exempted.

26 3. This section shall not apply to any child if one  
27 parent or guardian objects in writing to his school  
28 administrator against the immunization of the child, because  
29 of religious beliefs or medical contraindications. In cases  
30 where any such objection is for reasons of medical  
31 contraindications, a statement from a duly licensed  
32 physician must also be provided to the school administrator.

33 4. Each school superintendent, whether of a public,  
34 private, parochial or parish school, shall cause to be  
35 prepared a record showing the immunization status of every  
36 child enrolled in or attending a school under his  
37 jurisdiction. The name of any parent or guardian who  
38 neglects or refuses to permit a nonexempted child to be  
39 immunized against diseases as required by the rules and  
40 regulations promulgated pursuant to the provisions of this

41 section shall be reported by the school superintendent to  
42 the department of health and senior services.

43 5. The immunization required may be done by any duly  
44 licensed physician or by someone under his direction. If  
45 the parent or guardian is unable to pay, the child shall be  
46 immunized at public expense by a physician or nurse at or  
47 from the county, district, city public health center or a  
48 school nurse or by a nurse or physician in the private  
49 office or clinic of the child's personal physician with the  
50 costs of immunization paid through the state Medicaid  
51 program, private insurance or in a manner to be determined  
52 by the department of health and senior services subject to  
53 state and federal appropriations, and after consultation  
54 with the school superintendent and the advisory committee  
55 established in section 192.630. When a child receives his  
56 or her immunization, the treating physician may also  
57 administer the appropriate fluoride treatment to the child's  
58 teeth.

59 6. Funds for the administration of this section and  
60 for the purchase of vaccines for children of families unable  
61 to afford them shall be appropriated to the department of  
62 health and senior services from general revenue or from  
63 federal funds if available.

64 **7. No student shall be required, as a condition of**  
65 **school attendance or participation in school-sponsored**  
66 **extracurricular activities, to be immunized against COVID-**  
67 **19. No school shall require students to undergo COVID-19**  
68 **diagnostic testing as an alternative to receiving a COVID-19**  
69 **vaccination. This subsection shall expire on December 31,**  
70 **2029.**

71 8. No rule or portion of a rule promulgated under the  
72 authority of this section shall become effective unless it

73 has been promulgated pursuant to the provisions of chapter  
74 536. Any rule or portion of a rule, as that term is defined  
75 in section 536.010, that is created under the authority  
76 delegated in this section shall become effective only if it  
77 complies with and is subject to all of the provisions of  
78 chapter 536 and, if applicable, section 536.028. This  
79 section and chapter 536 are nonseverable and if any of the  
80 powers vested with the general assembly pursuant to chapter  
81 536 to review, to delay the effective date or to disapprove  
82 and annul a rule are subsequently held unconstitutional,  
83 then the grant of rulemaking authority and any rule proposed  
84 or adopted after August 28, 2001, shall be invalid and void.

**174.336. No public institution of higher education in  
2 this state shall require any student, whether residing on  
3 campus or not, to have received a COVID-19 vaccine in order  
4 to access educational and other services, including, but not  
5 limited to, in-class attendance, school-sponsored  
6 extracurricular activities, and access to school buildings  
7 and facilities. No public institution of higher education  
8 in this state shall require any student to undergo COVID-19  
9 diagnostic testing as an alternative to receiving a COVID-19  
10 vaccination. This section shall expire on December 31, 2029.**

210.003. 1. No child shall be permitted to enroll in  
2 or attend any public, private or parochial day care center,  
3 preschool or nursery school caring for ten or more children  
4 unless such child has been adequately immunized against  
5 vaccine-preventable childhood illnesses specified by the  
6 department of health and senior services in accordance with  
7 recommendations of the Centers for Disease Control and  
8 Prevention Advisory Committee on Immunization Practices  
9 (ACIP), **but until December 31, 2029, not including COVID-**

10 **19.** The parent or guardian of such child shall provide  
11 satisfactory evidence of the required immunizations.

12 2. A child who has not completed all immunizations  
13 appropriate for his or her age may enroll, if:

14 (1) Satisfactory evidence is produced that such child  
15 has begun the process of immunization. The child may  
16 continue to attend as long as the immunization process is  
17 being accomplished according to the ACIP/Missouri department  
18 of health and senior services recommended schedule;

19 (2) The parent or guardian has signed and placed on  
20 file with the day care administrator a statement of  
21 exemption which may be either of the following:

22 (a) A medical exemption, by which a child shall be  
23 exempted from the requirements of this section upon  
24 certification by a licensed physician that such immunization  
25 would seriously endanger the child's health or life; or

26 (b) A parent or guardian exemption, by which a child  
27 shall be exempted from the requirements of this section if  
28 one parent or guardian files a written objection to  
29 immunization with the day care administrator; or

30 (3) The child is homeless or in the custody of the  
31 children's division and cannot provide satisfactory evidence  
32 of the required immunizations. Satisfactory evidence shall  
33 be presented within thirty days of enrollment and shall  
34 confirm either that the child has completed all  
35 immunizations appropriate for his or her age or has begun  
36 the process of immunization. If the child has begun the  
37 process of immunization, he or she may continue to attend as  
38 long as the process is being accomplished according to the  
39 schedule recommended by the department of health and senior  
40 services.

41 Exemptions shall be accepted by the day care administrator  
42 when the necessary information as determined by the  
43 department of health and senior services is filed with the  
44 day care administrator by the parent or guardian. Exemption  
45 forms shall be provided by the department of health and  
46 senior services.

47 3. In the event of an outbreak or suspected outbreak  
48 of a vaccine-preventable disease within a particular  
49 facility, the administrator of the facility shall follow the  
50 control measures instituted by the local health authority or  
51 the department of health and senior services or both the  
52 local health authority and the department of health and  
53 senior services, as established in Rule 19 CSR 20-20.040,  
54 "Measures for the Control of Communicable, Environmental and  
55 Occupational Diseases".

56 4. The administrator of each public, private or  
57 parochial day care center, preschool or nursery school shall  
58 cause to be prepared a record of immunization of every child  
59 enrolled in or attending a facility under his or her  
60 jurisdiction. An annual summary report shall be made by  
61 January fifteenth showing the immunization status of each  
62 child enrolled, using forms provided for this purpose by the  
63 department of health and senior services. The immunization  
64 records shall be available for review by department of  
65 health and senior services personnel upon request.

66 5. For purposes of this section, "satisfactory  
67 evidence of immunization" means a statement, certificate or  
68 record from a physician or other recognized health facility  
69 or personnel, stating that the required immunizations have  
70 been given to the child and verifying the type of vaccine  
71 and the month, day and year of administration.

72           6. Nothing in this section shall preclude any  
73 political subdivision from adopting more stringent rules  
74 regarding the immunization of preschool children.

75           7. All public, private, and parochial day care  
76 centers, preschools, and nursery schools shall notify the  
77 parent or guardian of each child at the time of initial  
78 enrollment in or attendance at the facility that the parent  
79 or guardian may request notice of whether there are children  
80 currently enrolled in or attending the facility for whom an  
81 immunization exemption has been filed. Beginning December  
82 1, 2015, all public, private, and parochial day care  
83 centers, preschools, and nursery schools shall notify the  
84 parent or guardian of each child currently enrolled in or  
85 attending the facility that the parent or guardian may  
86 request notice of whether there are children currently  
87 enrolled in or attending the facility for whom an  
88 immunization exemption has been filed. Any public, private,  
89 or parochial day care center, preschool, or nursery school  
90 shall notify the parent or guardian of a child enrolled in  
91 or attending the facility, upon request, of whether there  
92 are children currently enrolled in or attending the facility  
93 for whom an immunization exemption has been filed.

          213.055. 1. It shall be an unlawful employment  
2 practice:

3           (1) For an employer, because of the race, color,  
4 religion, national origin, sex, ancestry, age or disability  
5 of any individual:

6           (a) To fail or refuse to hire or to discharge any  
7 individual, or otherwise to discriminate against any  
8 individual with respect to his compensation, terms,  
9 conditions, or privileges of employment, because of such

10 individual's race, color, religion, national origin, sex,  
11 ancestry, age or disability;

12 (b) To limit, segregate, or classify his employees or  
13 his employment applicants in any way which would deprive or  
14 tend to deprive any individual of employment opportunities  
15 or otherwise adversely affect his status as an employee,  
16 because of such individual's race, color, religion, national  
17 origin, sex, ancestry, age or disability;

18 (2) For a labor organization to exclude or to expel  
19 from its membership any individual or to discriminate in any  
20 way against any of its members or against any employer or  
21 any individual employed by an employer because of race,  
22 color, religion, national origin, sex, ancestry, age or  
23 disability of any individual; or to limit, segregate, or  
24 classify its membership, or to classify or fail or refuse to  
25 refer for employment any individual, in any way which would  
26 deprive or tend to deprive any individual of employment  
27 opportunities, or would limit such employment opportunities  
28 or otherwise adversely affect his status as an employee or  
29 as an applicant for employment, because of such individual's  
30 race, color, religion, national origin, sex, ancestry, age  
31 or disability; or for any employer, labor organization, or  
32 joint labor-management committee controlling apprenticeship  
33 or other training or retraining, including on-the-job  
34 training programs to discriminate against any individual  
35 because of his race, color, religion, national origin, sex,  
36 ancestry, age or disability in admission to, or employment  
37 in, any program established to provide apprenticeship or  
38 other training;

39 (3) For any employer or employment agency to print or  
40 circulate or cause to be printed or circulated any  
41 statement, advertisement or publication, or to use any form



42 of application for employment or to make any inquiry in  
43 connection with prospective employment, which expresses,  
44 directly or indirectly, any limitation, specification, or  
45 discrimination, because of race, color, religion, national  
46 origin, sex, ancestry, age or disability unless based upon a  
47 bona fide occupational qualification or for an employment  
48 agency to fail or refuse to refer for employment, or  
49 otherwise to discriminate against, any individual because of  
50 his or her race, color, religion, national origin, sex,  
51 ancestry, age as it relates to employment, or disability, or  
52 to classify or refer for employment any individual because  
53 of his or her race, color, religion, national origin, sex,  
54 ancestry, age or disability;

55 **(4) (a) For an employer to require an employee to**  
56 **receive COVID-19 vaccination as a condition of employment**  
57 **without permitting the employee to be exempted from such**  
58 **vaccination requirements because of the employee's**  
59 **religious, moral, ethical, or philosophical beliefs, medical**  
60 **condition, including pregnancy or future pregnancies, or**  
61 **previous exposure to and recovery from COVID-19.**

62 **(b) The employer may require the employee seeking the**  
63 **exemption to provide such request in writing. No employer**  
64 **shall require the employee to explain, prove, defend, or**  
65 **otherwise substantiate his or her religious, moral, ethical,**  
66 **or philosophical beliefs or medical conditions relating to**  
67 **requesting the vaccination exemption.**

68 **(c) The commission shall develop a form and make such**  
69 **form available to employers and employees to utilize in**  
70 **requesting a vaccination exemption.**

71 **(d) No employer shall require an employee who has**  
72 **requested or received a vaccination exemption to undergo**  
73 **COVID-19 diagnostic testing in place of a vaccination.**

74           **(e) In the case of a public employer, any record of**  
75 **vaccinations, exemptions, testing, or other related employee**  
76 **information containing identifying information of the**  
77 **employee shall be considered a closed record under chapter**  
78 **610.**

79           **(f) The provisions of this subdivision shall expire**  
80 **December 31, 2029.**

81           2. Notwithstanding any other provision of this  
82 chapter, it shall not be an unlawful employment practice for  
83 an employer to apply different standards of compensation, or  
84 different terms, conditions or privileges of employment  
85 pursuant to a bona fide seniority or merit system, or a  
86 system which measures earnings by quantity or quality of  
87 production or to employees who work in different locations,  
88 provided that such differences or such systems are not the  
89 result of an intention or a design to discriminate, and are  
90 not used to discriminate, because of race, color, religion,  
91 sex, national origin, ancestry, age or disability, nor shall  
92 it be an unlawful employment practice for an employer to  
93 give and to act upon the results of any professionally  
94 developed ability test, provided that such test, its  
95 administration, or action upon the results thereof, is not  
96 designed, intended or used to discriminate because of race,  
97 color, religion, national origin, sex, ancestry, age or  
98 disability.

99           3. Nothing contained in this chapter shall be  
100 interpreted to require any employer, employment agency,  
101 labor organization, or joint labor-management committee  
102 subject to this chapter to grant preferential treatment to  
103 any individual or to any group because of the race, color,  
104 religion, national origin, sex, ancestry, age or disability  
105 of such individual or group on account of an imbalance which

106 may exist with respect to the total number or percentage of  
107 persons of any race, color, religion, national origin, sex,  
108 ancestry, age or disability employed by any employer,  
109 referred or classified for employment by any employment  
110 agency or labor organization, admitted to membership or  
111 classified by any labor organization, or admitted to or  
112 employed in any apprenticeship or other training program, in  
113 comparison with the total number or percentage of persons of  
114 such race, color, religion, national origin, sex, ancestry,  
115 age or disability in any community, state, section, or other  
116 area, or in the available workforce in any community, state,  
117 section, or other area.

118 4. Notwithstanding any other provision of this  
119 chapter, it shall not be an unlawful employment practice for  
120 the state or any political subdivision of the state to  
121 comply with the provisions of 29 U.S.C. Section 623 relating  
122 to employment as firefighters or law enforcement officers.

Section B. Because of the need to secure the rights of  
2 Missourians relating to COVID-19 vaccination requirements,  
3 Section A of this act is deemed necessary for the immediate  
4 preservation of the public health, welfare, peace, and  
5 safety, and is hereby declared to be an emergency act within  
6 the meaning of the constitution, and Section A of this act  
7 shall be in full force and effect upon its passage and  
8 approval.

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