

1 AN ACT relating to exceptions to mandatory immunization requirements and
2 declaring an emergency.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. KRS 214.036 is amended to read as follows:

5 **(1)** Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and
6 214.990 shall be construed to require:

7 **(a)** The testing for tuberculosis or the immunization of any child at a time when,
8 in the written opinion of his **or her attending medical provider**~~attending~~
9 ~~physician~~, such testing or immunization would be injurious to the child's
10 health;~~]. Nor shall KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and~~
11 ~~214.990 be construed to require.]~~

12 **(b)** The immunization of any child whose parents **or guardian** are opposed to
13 medical immunization against disease, and who object by a written sworn
14 statement to the immunization of such child ~~[on religious grounds. Provided,~~
15 ~~however, that]~~ **based on religious grounds or conscientiously held beliefs; or**

16 **(c) The immunization of any emancipated minor or adult who is opposed to**
17 **medical immunization against disease, and who objects by a written sworn**
18 **statement to the immunization based on religious grounds or**
19 **conscientiously held beliefs.**

20 **(2)** In the event of an epidemic in a given area, the Cabinet for Health and Family
21 Services may~~[, by emergency regulation,]~~ require the immunization of all persons
22 within the area of epidemic, against the disease responsible for such epidemic,
23 **except that any administrative regulation promulgated pursuant to KRS Chapter**
24 **13A, administrative order issued by the cabinet, or executive order issued**
25 **pursuant to KRS Chapter 39A requiring such immunization shall not include:**

26 **(a) The immunization of any child or adult for whom, in the written opinion of**
27 **his or her attending medical provider, such testing or immunization would**

1 be injurious to his or her health;

2 (b) The immunization of any child whose parents or guardians are opposed to
3 medical immunization against disease and who object by a written sworn
4 statement to the immunization based on religious grounds or
5 conscientiously held beliefs; or

6 (c) The immunization of any emancipated minor or adult who is opposed to
7 medical immunization against disease, and who objects by a written sworn
8 statement to the immunization based on religious grounds or
9 conscientiously held beliefs.

10 (3) The cabinet shall:

11 (a) Develop and make available on its Web site a standardized form relating to
12 exemptions in this section from the immunization requirements; and

13 (b) Accept a completed standardized form when submitted.

14 ➔Section 2. KRS 209.552 is amended to read as follows:

15 (1) Every long-term care facility shall require residents to be immunized against
16 pneumococcal disease and influenza. Upon admission, the long-term care facility
17 shall:

18 (a) Notify the resident of the requirements of this section and request that the
19 resident agree to be immunized against pneumococcal disease and influenza
20 virus;

21 (b) Assess the resident's immunization status for influenza virus and
22 pneumococcal disease;

23 (c) Counsel each resident on the risks of influenza and pneumococcal disease; the
24 efficacy, side effects, and contraindications of these immunizations; and the
25 recommendations of the Centers for Disease Control prior to administration of
26 the vaccines; and

27 (d) Provide or arrange for immunizations against pneumococcal and influenza in

1 accordance with the recommendations of the Advisory Committee on
2 Immunization Practices of the Centers for Disease Control, unless medically
3 contraindicated, if the resident or long-term care facility does not have
4 documentation of the immunization.

5 (2) Every long-term care facility shall document immunization against influenza virus
6 every influenza season, by October 15 or upon admission, whichever comes later,
7 and pneumococcal immunization for each resident. Upon finding that a resident
8 lacks either of these immunizations, the facility shall provide or arrange for the
9 immunization in accordance with the recommendations of the Advisory Committee
10 on Immunization Practices of the Centers for Disease Control, unless medically
11 contraindicated.

12 (3) Every long-term care facility shall require each employee, regardless of employment
13 status, to be immunized against pneumococcal and influenza virus. Upon
14 employment, the long-term care facility shall:

15 (a) Notify the employee of the requirements of this section and request that the
16 employee agree to be immunized against pneumococcal disease and influenza
17 virus;

18 (b) Assess the employee's immunization status for influenza virus and
19 pneumococcal disease;

20 (c) Counsel each employee on the risks of influenza and pneumococcal disease;
21 the efficacy, side effects, and contraindications of these immunizations; and
22 the recommendations of the Centers for Disease Control prior to
23 administration of the vaccines; and

24 (d) Provide or arrange for immunizations against pneumococcal and influenza in
25 accordance with the recommendations of the Advisory Committee on
26 Immunization Practices of the Centers for Disease Control, unless medically
27 contraindicated, if the employee or the long-term care facility does not have

1 documentation of the appropriate immunizations.

2 (4) Every long-term care facility shall document immunization against influenza virus
3 every influenza season, by October 15 or upon employment, whichever comes later,
4 and pneumococcal immunization for each employee. Upon finding that an
5 employee lacks either of these immunizations, the facility shall provide or arrange
6 for immunization in accordance with the recommendations of the Advisory
7 Committee on Immunization Practices of the Centers for Disease Control, unless
8 medically contraindicated.

9 (5) The provisions of this section shall not apply if:

10 (a) The vaccine is medically contraindicated;

11 (b) The employee, resident, or resident's legal guardian objects to the
12 immunizations due to religious grounds or conscientiously held beliefs; or

13 (c) The employee or resident refuses the vaccine after being fully informed of the
14 health risks.

15 ➔Section 3. KRS 214.034 is amended to read as follows:

16 Except as otherwise provided in KRS 214.036:

17 (1) All parents, guardians, and other persons having care, custody, or control of any
18 child shall have the child immunized against diphtheria, tetanus, poliomyelitis,
19 pertussis, measles, rubella, mumps, hepatitis B, and haemophilis influenzae disease
20 in accordance with testing and immunization schedules established by regulations
21 of the Cabinet for Health and Family Services. Additional immunizations may be
22 required by the Cabinet for Health and Family Services through the promulgation of
23 an administrative regulation pursuant to KRS Chapter 13A if recommended by the
24 United States Public Health Service or the American Academy of Pediatrics. All
25 parents, guardians, and other persons having care, custody, or control of any child
26 shall also have any child found to be infected with tuberculosis examined and
27 treated according to administrative regulations of the Cabinet for Health and Family

1 Services promulgated under KRS Chapter 13A. The persons shall also have booster
2 immunizations administered to the child in accordance with the regulations of the
3 Cabinet for Health and Family Services.

4 (2) A local health department may, with the approval of the Department of Public
5 Health, require all first-time enrollees in a public or private school within the health
6 department's jurisdiction to be tested for tuberculosis prior to entering school.
7 Following the first year of school, upon an epidemiological determination made by
8 the state or local health officer in accordance with administrative regulations
9 promulgated by the Cabinet for Health and Family Services, all parents, guardians,
10 and other persons having care, custody, or control of any child shall have the child
11 tested for tuberculosis, and shall have any child found to be infected with
12 tuberculosis examined and treated according to administrative regulations of the
13 Cabinet for Health and Family Services. Nothing in this section shall be construed
14 to require the testing for tuberculosis of any child whose parent or guardian is
15 opposed to such testing, and who objects by a written sworn statement to the testing
16 for tuberculosis of the child on religious grounds or conscientiously held beliefs.
17 However, in a suspected case of tuberculosis, a local health department may require
18 testing of this child.

19 (3) All public or private primary or secondary schools, and preschool programs shall
20 require a current immunization certificate for any child enrolled as a regular
21 attendee, as provided by administrative regulation of the Cabinet for Health and
22 Family Services, promulgated under KRS Chapter 13A, to be on file within two (2)
23 weeks of the child's attendance.

24 (4) All public or private primary schools shall require a current immunization
25 certificate for hepatitis B for any child enrolled as a regular attendee in the sixth
26 grade, as provided by administrative regulation of the Cabinet for Health and
27 Family Services, promulgated under KRS Chapter 13A, to be on file within two (2)

1 weeks of the child's attendance.

2 (5) For each child cared for in a day-care center, certified family child-care home, or
3 any other licensed facility which cares for children, a current immunization
4 certificate, as provided by administrative regulation of the Cabinet for Health and
5 Family Services, promulgated under KRS Chapter 13A, shall be on file in the
6 center, home, or facility within thirty (30) days of entrance into the program or
7 admission to the facility.

8 (6) Any forms relating to exemption from immunization requirements shall be available
9 at public or private primary or secondary schools, preschool programs, day-care
10 centers, certified family child-care homes, or other licensed facilities which care for
11 children.

12 ➔Section 4. Whereas the civil rights of Kentucky's citizens are to remain
13 protected against mandatory immunization requirements during an epidemic, an
14 emergency is declared to exist, and this Act takes effect upon its passage and approval by
15 the Governor or upon its otherwise becoming a law.