

SECOND REGULAR SESSION

# HOUSE BILL NO. 1424

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MCGIRL.

4100H.011

DANA RADEMAN MILLER, Chief Clerk

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## 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.

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

Section A. Sections 67.308, 167.181, 210.003, and 213.055, RSMo, are repealed and  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

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

167.181. 1. The department of health and senior services, after consultation with the  
2 department of elementary and secondary education, shall promulgate rules and regulations  
3 governing the immunization against poliomyelitis, rubella, rubeola, mumps, tetanus,  
4 pertussis, diphtheria, and hepatitis B, to be required of children attending public, private,  
5 parochial or parish schools. Such rules and regulations may modify the immunizations that  
6 are required of children in this subsection. The immunizations required and the manner and  
7 frequency of their administration shall conform to recognized standards of medical practice.  
8 The department of health and senior services shall supervise and secure the enforcement of  
9 the required immunization program.

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

10           2. It is unlawful for any student to attend school unless he **or she** has been immunized  
11 as required under the rules and regulations of the department of health and senior services,  
12 and can provide satisfactory evidence of such immunization; except that if he **or she** produces  
13 satisfactory evidence of having begun the process of immunization, he **or she** may continue  
14 to attend school as long as the immunization process is being accomplished in the prescribed  
15 manner. It is unlawful for any parent or guardian to refuse or neglect to have his **or her** child  
16 immunized as required by this section, unless the child is properly exempted.

17           3. This section shall not apply to any child if one parent or guardian objects in writing  
18 to his **or her** school administrator against the immunization of the child, because of religious  
19 beliefs or medical contraindications. In cases where any such objection is for reasons of  
20 medical contraindications, a statement from a duly licensed physician must also be provided  
21 to the school administrator.

22           4. Each school superintendent, whether of a public, private, parochial or parish  
23 school, shall cause to be prepared a record showing the immunization status of every child  
24 enrolled in or attending a school under his **or her** jurisdiction. The name of any parent or  
25 guardian who neglects or refuses to permit a nonexempted child to be immunized against  
26 diseases as required by the rules and regulations promulgated pursuant to the provisions of  
27 this section shall be reported by the school superintendent to the department of health and  
28 senior services.

29           5. The immunization required may be done by any duly licensed physician or by  
30 someone under his **or her** direction. If the parent or guardian is unable to pay, the child shall  
31 be immunized at public expense by a physician or nurse at or from the county, district, city  
32 public health center or a school nurse or by a nurse or physician in the private office or clinic  
33 of the child's personal physician with the costs of immunization paid through the state  
34 Medicaid program, private insurance or in a manner to be determined by the department of  
35 health and senior services subject to state and federal appropriations, and after consultation  
36 with the school superintendent and the advisory committee established in section 192.630.  
37 When a child receives his or her immunization, the treating physician may also administer the  
38 appropriate fluoride treatment to the child's teeth.

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

42           7. **No student shall be required, as a condition of school attendance or**  
43 **participation in school-sponsored extracurricular activities, to be immunized against**  
44 **COVID-19. No school shall require students to undergo COVID-19 diagnostic testing as**  
45 **an alternative to receiving a COVID-19 vaccination. This subsection shall expire on**  
46 **December 31, 2028.**

47           **8.** No rule or portion of a rule promulgated under the authority of this section shall  
48 become effective unless it has been promulgated pursuant to the provisions of chapter 536.  
49 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under  
50 the authority delegated in this section shall become effective only if it complies with and is  
51 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section  
52 and chapter 536 are nonseverable and if any of the powers vested with the general assembly  
53 pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule  
54 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
55 proposed or adopted after August 28, 2001, shall be invalid and void.

**174.336. No public institution of higher education in this state shall require any  
2 student, whether residing on or off campus, to have received a COVID-19 vaccine in  
3 order to access educational and other services including, but not limited to, in-class  
4 attendance, school-sponsored extracurricular activities, and access to school buildings  
5 and facilities. No public institution of higher education in this state shall require any  
6 student to undergo COVID-19 diagnostic testing as an alternative to receiving a  
7 COVID-19 vaccination. This section shall expire on December 31, 2028.**

210.003. 1. No child shall be permitted to enroll in or attend any public, private or  
2 parochial day care center, preschool or nursery school caring for ten or more children unless  
3 such child has been adequately immunized against vaccine-preventable childhood illnesses  
4 specified by the department of health and senior services in accordance with  
5 recommendations of the Centers for Disease Control and Prevention Advisory Committee  
6 on Immunization Practices (ACIP), **but until December 31, 2028, not including COVID-  
7 19.** The parent or guardian of such child shall provide satisfactory evidence of the required  
8 immunizations.

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

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

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

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

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

23 (3) The child is homeless or in the custody of the children's division and cannot  
24 provide satisfactory evidence of the required immunizations. Satisfactory evidence shall be  
25 presented within thirty days of enrollment and shall confirm either that the child has  
26 completed all immunizations appropriate for his or her age or has begun the process of  
27 immunization. If the child has begun the process of immunization, he or she may continue to  
28 attend as long as the process is being accomplished according to the schedule recommended  
29 by the department of health and senior services.

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31 Exemptions shall be accepted by the day care administrator when the necessary information  
32 as determined by the department of health and senior services is filed with the day care  
33 administrator by the parent or guardian. Exemption forms shall be provided by the  
34 department of health and senior services.

35 3. In the event of an outbreak or suspected outbreak of a vaccine-preventable disease  
36 within a particular facility, the administrator of the facility shall follow the control measures  
37 instituted by the local health authority or the department of health and senior services or both  
38 the local health authority and the department of health and senior services, as established in  
39 Rule 19 CSR 20-20.040, "Measures for the Control of Communicable, Environmental and  
40 Occupational Diseases".

41 4. The administrator of each public, private or parochial day care center, preschool or  
42 nursery school shall cause to be prepared a record of immunization of every child enrolled in  
43 or attending a facility under his or her jurisdiction. An annual summary report shall be made  
44 by January fifteenth showing the immunization status of each child enrolled, using forms  
45 provided for this purpose by the department of health and senior services. The immunization  
46 records shall be available for review by department of health and senior services personnel  
47 upon request.

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

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

54 7. All public, private, and parochial day care centers, preschools, and nursery schools  
55 shall notify the parent or guardian of each child at the time of initial enrollment in or  
56 attendance at the facility that the parent or guardian may request notice of whether there are

57 children currently enrolled in or attending the facility for whom an immunization exemption  
58 has been filed. Beginning December 1, 2015, all public, private, and parochial day care  
59 centers, preschools, and nursery schools shall notify the parent or guardian of each child  
60 currently enrolled in or attending the facility that the parent or guardian may request notice of  
61 whether there are children currently enrolled in or attending the facility for whom an  
62 immunization exemption has been filed. Any public, private, or parochial day care center,  
63 preschool, or nursery school shall notify the parent or guardian of a child enrolled in or  
64 attending the facility, upon request, of whether there are children currently enrolled in or  
65 attending the facility for whom an immunization exemption has been filed.

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

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

4 (a) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate  
5 against any individual with respect to his **or her** compensation, terms, conditions, or  
6 privileges of employment, because of such individual's race, color, religion, national origin,  
7 sex, ancestry, age or disability;

8 (b) To limit, segregate, or classify his **or her** employees or his **or her** employment  
9 applicants in any way which would deprive or tend to deprive any individual of employment  
10 opportunities or otherwise adversely affect his **or her** status as an employee, because of such  
11 individual's race, color, religion, national origin, sex, ancestry, age or disability;

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

26 (3) For any employer or employment agency to print or circulate or cause to be  
27 printed or circulated any statement, advertisement or publication, or to use any form of  
28 application for employment or to make any inquiry in connection with prospective

29 employment, which expresses, directly or indirectly, any limitation, specification, or  
30 discrimination, because of race, color, religion, national origin, sex, ancestry, age or  
31 disability unless based upon a bona fide occupational qualification or for an employment  
32 agency to fail or refuse to refer for employment, or otherwise to discriminate against, any  
33 individual because of his or her race, color, religion, national origin, sex, ancestry, age as it  
34 relates to employment, or disability, or to classify or refer for employment any individual  
35 because of his or her race, color, religion, national origin, sex, ancestry, age or disability;

36 **(4) (a) For an employer to require an employee to receive COVID-19**  
37 **vaccination as a condition of employment without permitting the employee to be**  
38 **exempted from such vaccination requirements because of the employee's religious,**  
39 **moral, ethical, or philosophical beliefs; medical condition, including pregnancy or**  
40 **future pregnancies; or previous exposure to and recovery from COVID-19.**

41 **(b) The employer may require the employee seeking the exemption to provide**  
42 **such request in writing. No employer shall require the employee to explain, prove,**  
43 **defend, or otherwise substantiate his or her religious, moral, ethical, or philosophical**  
44 **beliefs or medical conditions relating to the request for the vaccination exemption.**

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

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

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

53 **(f) The provisions of this subdivision shall expire December 31, 2028.**

54 2. Notwithstanding any other provision of this chapter, it shall not be an unlawful  
55 employment practice for an employer to apply different standards of compensation, or  
56 different terms, conditions or privileges of employment pursuant to a bona fide seniority or  
57 merit system, or a system which measures earnings by quantity or quality of production or to  
58 employees who work in different locations, provided that such differences or such systems  
59 are not the result of an intention or a design to discriminate, and are not used to discriminate,  
60 because of race, color, religion, sex, national origin, ancestry, age or disability, nor shall it be  
61 an unlawful employment practice for an employer to give and to act upon the results of any  
62 professionally developed ability test, provided that such test, its administration, or action  
63 upon the results thereof, is not designed, intended or used to discriminate because of race,  
64 color, religion, national origin, sex, ancestry, age or disability.

65           3. Nothing contained in this chapter shall be interpreted to require any employer,  
66 employment agency, labor organization, or joint labor-management committee subject to this  
67 chapter to grant preferential treatment to any individual or to any group because of the race,  
68 color, religion, national origin, sex, ancestry, age or disability of such individual or group on  
69 account of an imbalance which may exist with respect to the total number or percentage of  
70 persons of any race, color, religion, national origin, sex, ancestry, age or disability employed  
71 by any employer, referred or classified for employment by any employment agency or labor  
72 organization, admitted to membership or classified by any labor organization, or admitted to  
73 or employed in any apprenticeship or other training program, in comparison with the total  
74 number or percentage of persons of such race, color, religion, national origin, sex, ancestry,  
75 age or disability in any community, state, section, or other area, or in the available workforce  
76 in any community, state, section, or other area.

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

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

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