

SENATE BILL NO. 1207

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR ONDER.

5804S.011

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 67.265, 67.308, 167.029, 167.181, 167.191, 171.011, and 192.290, RSMo, and to enact in lieu thereof eight new sections relating to public health, with penalty provisions.

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

Section A. Sections 67.265, 67.308, 167.029, 167.181, 2 167.191, 171.011, and 192.290, RSMo, are repealed and eight new 3 sections enacted in lieu thereof, to be known as sections 4 27.150, 67.265, 67.308, 167.029, 167.181, 167.191, 171.011, and 5 192.290, to read as follows:

27.150. 1. In a civil action brought by the attorney 2 general pursuant to section 27.060 against a political 3 subdivision, including school districts, relating to the 4 authority to impose health-related orders, as defined in 5 subsection 1 of section 67.265, the court shall award 6 attorney's fees, court costs, and all other expenses 7 incurred by the attorney general in the maintenance of any 8 such action brought if the attorney general is the 9 prevailing party.

10 **2. Any funds received by the attorney general pursuant 11 to subsection 1 of this section shall be deposited into the 12 state treasury to be used in the line of duty, survivor's 13 and disabled employee's educational grant program, as set 14 forth in section 173.260.**

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

67.265. 1. For purposes of this section, the [term
"order" shall] the following terms mean:

(1) "Local elected governing body", the board of alderman, city council, county commission, or other like body of officials elected to represent an entire city or county, but shall not include any inferior body whose duties are limited to a specific area of responsibility or expertise within the city or county, including, but not limited to, a local health authority;

(2) "Order", a public health order, ordinance, rule, or regulation issued by a political subdivision[, including by a health officer, local public health agency, public health authority, or the political subdivision's executive, as such term is defined in section 67.750,] in response to an actual or perceived threat to public health for the purpose of preventing the spread of a contagious disease[.];

(3) "Prohibited order", any order that has been terminated under subsection 3 of this section or expired under subsection 2 of this section;

(4) "Statewide pandemic", an outbreak of a particularly dangerous disease affecting a high proportion of the population, appearing in three or more counties.

2. Notwithstanding any other provision of law to the contrary, all orders shall be approved by a vote of the local elected governing body of the city or county, shall be issued by the same, and shall be subject to the following:

(1) Any order issued during and related to an emergency declared pursuant to chapter 44 that directly or indirectly closes, partially closes, or places restrictions on the opening of or access to any one or more business organizations, churches, schools, or other places of public or private gathering or assembly, including any order,

33 ordinance, rule, or regulation of general applicability [or]
34 that prohibits or otherwise limits attendance at any public
35 or private gatherings[, shall not remain in effect for
36 longer than thirty calendar days in a one hundred eighty-day-
37 period, including the cumulative duration of similar orders
38 issued concurrently, consecutively, or successively, and] **or**
39 **requires the wearing of face coverings**, shall automatically
40 expire at the end of [the] thirty days or as specified in
41 the order, whichever is shorter, unless so authorized by a
42 simple majority vote of the [political subdivision's] **local**
43 **elected** governing body to extend such order or approve a
44 similar order **prior to the expiration or termination of the**
45 **original order**; provided that such extension or approval of
46 similar orders shall not [exceed thirty calendar days in
47 duration and any order may be extended more than once]
48 **extend beyond sixty days from the effective date of the**
49 **original order passed pursuant to this subsection**; and
50 (2) Any order of general applicability issued at a
51 time other than an emergency declared pursuant to chapter 44
52 that directly or indirectly closes, **partially closes, or**
53 **places restrictions on the opening of or access to any one**
54 **or more business organizations**, an entire classification of
55 business organizations, churches, schools, or other places
56 of public or private gathering or assembly, **including any**
57 **order, ordinance, rule, or regulation of general**
58 **applicability that prohibits or otherwise limits attendance**
59 **at any public or private gatherings or requires the wearing**
60 **of face coverings**, shall [not remain in effect for longer
61 than twenty-one calendar days in a one hundred eighty-day-
62 period, including the cumulative duration of similar orders
63 issued concurrently, consecutively, or successively, and
64 shall] automatically expire at the end of [the twenty-one]

65 **twenty** days or as specified in the order, whichever is
66 shorter, unless so authorized by a two-thirds majority vote
67 of the [political subdivision's] **local elected** governing
68 body to extend such order or approve a similar order **prior**
69 **to the expiration or termination of the original order;**
70 provided that such extension or approval of similar orders
71 [may be extended more than once] **shall not extend beyond**
72 **sixty days from the effective date of the original order**
73 **passed pursuant to this subsection; and**

74 (3) Upon the expiration of sixty days as set forth in
75 either subdivision (1) or (2) of this subsection, whichever
76 occurs first, only the director of the department of health
77 and senior services shall be authorized to issue or extend
78 any further order relating to the actual or perceived threat
79 to public health or safety that gave rise to the order
80 authorized by the local elected governing body or to
81 terminate the same.

82 [2.] 3. The [governing bodies of the political
83 subdivisions] **local elected governing body** issuing orders
84 under this section shall at all times have the authority to
85 terminate [an order] **local orders** issued or extended under
86 this section upon a simple majority vote of the body.

87 [3.] 4. In the case of local public health agencies
88 created through an agreement by multiple counties under
89 chapter 70, all of the participating counties' **local elected**
90 governing bodies shall be required to approve or terminate
91 orders in accordance with the provisions of this section.

92 [4.] 5. Prior to or concurrent with the issuance or
93 extension of any order under subdivisions (1) and (2) of
94 subsection [1] 2 of this section, the health officer, local
95 public health agency, public health authority, or executive
96 shall provide a report to the **local elected** governing body

97 containing information supporting the need for such order
98 and may submit a draft order, which shall not have any legal
99 effect until approved by a vote of the local elected
100 governing body taken in a session that is open to the
101 public. Such report shall include specific studies or other
102 evidence relied upon in the creation of the order, as well
103 as an explanation of the legal authority upon which the
104 order is based. Such report shall also include a summary of
105 the general nature and extent of comments submitted in
106 support of or in opposition to the proposed order and a
107 concise summary of the testimony presented at all hearings
108 in which the order was discussed. The report shall contain
109 a summary of the findings with respect to the merits of any
110 such testimony or comments submitted by members of the
111 public that are opposed in whole or in part to the draft
112 order.

113 [5.] 6. No [political subdivision] local elected
114 governing body of this state shall make or modify any orders
115 that have the effect, directly or indirectly, of a
116 prohibited order under this section.

117 [6.] 7. No **directive**, rule or regulation issued by the
118 department of health and senior services shall authorize a
119 local health official, health officer, local public health
120 agency, or public health authority to create or enforce any
121 order, ordinance, rule, or regulation described in section
122 192.300 or this section that is inconsistent with the
123 provisions of this section.

124 8. Notwithstanding the provisions of subsection 2 of
125 this section to the contrary, no local elected governing
126 body shall issue or authorize any order relating to a
127 statewide pandemic pursuant to this section unless the
128 governor has, by executive order pursuant to an emergency

129 declared under chapter 44, directed the director of the
130 department of health and senior services to authorize, by
131 written directive containing sufficiently specific criteria,
132 local elected governing bodies to issue or approve such
133 orders, except that no such local orders shall be more
134 expansive than the written directive issued by the
135 department and shall be subject to review and alteration by
136 the director.

137 (1) Not less than thirty days after the issuance of a
138 written directive by the director as set forth in this
139 subsection, the department shall replace such directive with
140 an emergency rule promulgated as set forth in chapter 536.

141 (2) Any order issued by a local elected governing body
142 that is not in compliance with this subsection shall be void
143 ab initio.

144 (3) Any order issued by a local elected governing body
145 shall be subject to the time limitations set forth in
146 subsection 2 of this section.

147 9. (1) The existence of a statewide pandemic may be
148 declared by the governor or the director of the department
149 of health and senior services.

150 (2) The general assembly may, by the passage of a
151 concurrent resolution, declare the existence of a statewide
152 pandemic. Such resolution shall not extend the declaration
153 of a statewide pandemic for more than thirty days beyond the
154 convening of the next regular session of the general
155 assembly, but may by its own provisions specify the
156 expiration date of the declaration prior to that time. The
157 general assembly may approve subsequent declarations in like
158 manner and subject to the same limitations.

159 (3) During a statewide pandemic, only the director
160 shall have the authority to close a public or private school

161 or other place of public or private assembly or to reduce,
162 alter, suspend or otherwise restrict the operations or hours
163 thereof. The director shall consult with the local health
164 authorities prior to any such closing.

165 10. (1) Any person aggrieved by the actions of a
166 political subdivision, including its local elected governing
167 body, its officers, employees, or agents in violation of
168 this section shall have a civil claim for damages against
169 such political subdivision for:

- 170 (a) Injunctive relief;
- 171 (b) Treble compensatory damages;
- 172 (c) Punitive damages;
- 173 (d) Costs of litigation, including, but not limited
174 to, court costs and expert witness fees; and
- 175 (e) Reasonable attorney's fees.

176 (2) Neither sovereign immunity nor official immunity
177 shall be a defense in any such civil action.

178 (3) Venue for any civil action filed pursuant to this
179 section shall, at the election of the aggrieved party, be in
180 the county within which the aggrieved party resides, in the
181 county within which the alleged harm occurred, or Cole
182 County.

183 (4) The attorney general may bring an action to enjoin
184 any violation of this section, as well as seek costs of
185 litigation and reasonable attorney's fees.

186 (5) In any civil action filed under this section by a
187 person with standing or by the attorney general, upon a
188 showing that a material fact is in dispute, the political
189 subdivision shall bear the burden of showing, by clear and
190 convincing evidence, that its order was necessary to prevent
191 the actual or anticipated harm and that no less restrictive

192 means to prevent such actual or anticipated harm were
193 available.

67.308. 1. No county, city, town or village in this
2 state receiving public funds shall require documentation of
3 an individual having received a vaccination against COVID-19
4 in order for the individual to access transportation systems
5 or services or any other public accommodations.

6 2. No private person, business, corporation,
7 organization or other nongovernmental entity shall be
8 required to assist in any manner in the enforcement of any
9 order issued pursuant to section 67.265 nor shall such
10 person or entity suffer any adverse action, including, but
11 not limited to, a fine, loss of a business license, closure,
12 or citation for any such refusal to assist.

13 3. Any person aggrieved by the actions of a political
14 subdivision or any public official under this section shall
15 have a civil claim for damages against such political
16 subdivision or public official for:

- 17 (1) Injunctive relief;
18 (2) Treble compensatory damages;
19 (3) Punitive damages;
20 (4) Costs of litigation, including, but not limited
21 to, court costs and expert witness fees; and
22 (5) Reasonable attorney's fees.

23 4. Neither sovereign immunity nor official immunity
24 shall be defense in any such civil action.

25 5. The attorney general may bring an action to enjoin
26 any violation of this section, as well as seek costs of
27 litigation and reasonable attorney's fees.

28 6. In any civil action filed under this section by a
29 person with standing or by the attorney general, upon a
30 showing that a material fact is in dispute, the political

31 subdivision shall bear the burden of showing, by clear and
32 convincing evidence, that its order was necessary to prevent
33 the actual or anticipated harm and that no less restrictive
34 means to prevent such actual or anticipated harm were
35 available.

36 7. Venue for any civil action filed pursuant to this
37 section or section 67.265 shall, at the election of the
38 aggrieved party, be the county in which the aggrieved party
39 resides, the county where the alleged harm occurred, or Cole
40 County.

167.029. 1. A public school district may require
2 students to wear a school uniform or restrict student dress
3 to a particular style in accordance with the law. The
4 school district may determine the style and color of the
5 school uniform.

6 2. No public or charter school shall implement or
7 enforce any student dress requirements that include a mask
8 or other face covering or respirator.

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
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 wear face masks or**
68 **other face coverings or respirators as an alternative to**
69 **receiving a COVID-19 vaccination. No school shall require**
70 **students to undergo COVID-19 diagnostic testing or otherwise**
71 **implement a "test to stay" policy requiring testing as an**
72 **alternative to receiving a COVID-19 vaccination; provided,**
73 **that nothing in this subsection shall be interpreted to**
74 **preclude a school from requiring a student to be tested as**
75 **described in section 167.191 as a condition for school**
76 **attendance or participation in school-sponsored**
77 **extracurricular activities. For purposes of this section,**
78 **"COVID-19" shall include any variant thereof.**

79 8. No rule or portion of a rule promulgated under the
80 authority of this section shall become effective unless it
81 has been promulgated pursuant to the provisions of chapter
82 536. Any rule or portion of a rule, as that term is defined
83 in section 536.010, that is created under the authority
84 delegated in this section shall become effective only if it
85 complies with and is subject to all of the provisions of
86 chapter 536 and, if applicable, section 536.028. This
87 section and chapter 536 are nonseverable and if any of the
88 powers vested with the general assembly pursuant to chapter
89 536 to review, to delay the effective date or to disapprove
90 and annul a rule are subsequently held unconstitutional,
91 then the grant of rulemaking authority and any rule proposed
92 or adopted after August 28, 2001, shall be invalid and void.

167.191. 1. It is unlawful for any child to attend
2 any of the public schools of this state while afflicted with
3 any contagious or infectious disease, or while liable to
4 transmit such disease after having been exposed to it. For
5 the purpose of determining the diseased condition, or the
6 liability of transmitting the disease, the teacher or board
7 of directors may require any child to be examined by a
8 physician, **physician assistant, or advanced practice**
9 **registered nurse** and exclude the child from school so long
10 as there is any liability of such disease being transmitted
11 by the pupil. **For the purposes of this section, the term**
12 **"liability" shall mean that symptoms of such a contagious or**
13 **infectious disease are present and that disease transmission**
14 **is more likely than not to occur.** If the parent or guardian
15 refuses to have an examination made by a physician [at the
16 request of the teacher or board of directors, the teacher or
17 board of directors], **physician assistant, or advanced**
18 **practice registered nurse pursuant to the written request of**

19 **a school administration or school board, the child** may
20 **[exclude the child] be excluded** from school. Any parent or
21 guardian who persists in sending a child to school, after
22 having been examined as provided by this section, and found
23 to be afflicted with any contagious or infectious disease,
24 or liable to transmit the disease, or refuses to have the
25 child examined as herein provided, is guilty of a
26 misdemeanor, and, upon conviction, shall be punished by a
27 fine of not less than five nor more than one hundred dollars.

28 **2. If the parent or guardian of the child presents a**
29 **written document, signed by the physician, physician**
30 **assistant, or advanced practice registered nurse, stating**
31 **that the child is not afflicted with any contagious or**
32 **infectious disease, or liable to transmit such disease, the**
33 **child shall not be excluded from school under subsection 1**
34 **of this section.**

171.011. 1. The school board of each school district
2 in the state may make all needful rules and regulations for
3 the organization, grading and government in the school
4 district. The rules shall take effect when a copy of the
5 rules, duly signed by order of the board, is deposited with
6 the district clerk. The district clerk shall transmit
7 forthwith a copy of the rules to the teachers employed in
8 the schools. The rules may be amended or repealed in like
9 manner.

10 **2. No school administrator, teacher, staff, or other**
11 **personnel of any public school or charter school, nor any**
12 **school board, shall have authority to adopt rules,**
13 **regulations, policies, directives, or any other such order**
14 **relating to quarantines, isolation, or other health-related**
15 **requirements for students, except as set forth in section**
16 **167.191, provided that nothing in this section or section**

17 167.191 shall be construed to authorize any such order
18 relating to masking or vaccinations.

19 3. During a statewide pandemic, as defined in section
20 67.265, all generally applicable orders relating to the
21 spread of an infectious or contagious disease shall be made
22 by a local elected governing body, as set forth in section
23 67.265.

192.290. All rules and regulations authorized and made
2 by the department of health and senior services in
3 accordance with this chapter shall supersede as to those
4 matters to which this chapter relates, all local **orders**,
5 ordinances, rules and regulations and shall be observed
6 throughout the state and enforced by all local and state
7 health authorities. Nothing herein shall limit the right of
8 local authorities **under section 192.300** to make such further
9 **orders**, ordinances, rules and regulations not inconsistent
10 with **or more restrictive than** the rules and regulations
11 prescribed by the department of health and senior services
12 which may be necessary for the particular locality under the
13 jurisdiction of such local authorities, **except that all such**
14 **orders, ordinances, rules, and regulations made by local**
15 **authorities shall comply with the provisions of section**
16 **67.265.**

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