

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute No. 2 for Senate Bill No. 710, Page 2, Section 9.236, Line 7,  
2 by inserting after all of said section and line the following:

3  
4 "67.265. 1. For purposes of this section, the ~~[term "order" shall]~~ following terms mean:

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

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

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

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

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

20 (1) Any order issued during and related to an emergency declared pursuant to chapter 44  
21 that directly or indirectly closes, partially closes, or places restrictions on the opening of or access to  
22 any one or more business organizations, churches, schools, or other places of public or private  
23 gathering or assembly, including any order, ordinance, rule, or regulation of general applicability  
24 ~~[or]~~ that prohibits or otherwise limits attendance at any public or private gatherings, or requires the  
25 wearing of face coverings, ~~[shall not remain in effect for longer than thirty calendar days in a one~~  
26 hundred eighty day period, including the cumulative duration of similar orders issued concurrently,  
27 consecutively, or successively, and] shall automatically expire at the end of ~~[the]~~ thirty days or as  
28 specified in the order, whichever is shorter, unless so authorized by a simple majority vote of the  
29 ~~[political subdivision's]~~ local elected governing body to extend such order or approve a similar order  
30 prior to the expiration or termination of the original order; provided that such extension or approval  
31 of similar orders shall not ~~[exceed thirty calendar days in duration and any order may be extended~~  
32 more than once] extend beyond sixty days from the effective date of the original order passed  
33 pursuant to this subdivision; ~~[and]~~

34 (2) Any order of general applicability issued at a time other than an emergency declared  
35 pursuant to chapter 44 that directly or indirectly closes, partially closes, or places restrictions on the  
36 opening of or access to any one or more business organizations, an entire classification of business

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1 organizations, churches, schools, or other places of public or private gathering or assembly,  
 2 including any order, ordinance, rule, or regulation of general applicability that prohibits or otherwise  
 3 limits attendance at any public or private gatherings, or requires the wearing of face coverings, shall  
 4 [not remain in effect for longer than twenty-one calendar days in a one hundred eighty-day period,  
 5 including the cumulative duration of similar orders issued concurrently, consecutively, or  
 6 successively, and shall] automatically expire at the end of [~~the twenty-one~~] twenty days or as  
 7 specified in the order, whichever is shorter, unless so authorized by a two-thirds majority vote of the  
 8 [~~political subdivision's~~] local elected governing body to extend such order or approve a similar order  
 9 prior to the expiration or termination of the original order ; provided that such extension or approval  
 10 of similar orders [may be extended more than once] shall not extend beyond sixty days from the  
 11 effective date of the original order passed pursuant to this subdivision; and

12 (3) Upon the expiration of sixty days as set forth in subdivision (1) or (2) of this subsection,  
 13 only the director of the department of health and senior services shall be authorized to issue or  
 14 extend any further order relating to the actual or perceived threat to public health or safety that gave  
 15 rise to the order authorized by the local elected governing body or to terminate the same.

16 ~~[2.]~~ 3. The [governing bodies of the political subdivisions] local elected governing body  
 17 issuing orders under this section shall at all times have the authority to terminate [an order] local  
 18 orders issued or extended under this section upon a simple majority vote of the body.

19 ~~[3.]~~ 4. In the case of local public health agencies created through an agreement by multiple  
 20 counties under chapter 70, all of the participating counties' local elected governing bodies shall be  
 21 required to approve or terminate orders in accordance with the provisions of this section.

22 ~~[4.]~~ 5. Prior to or concurrent with the issuance or extension of any order under subdivisions  
 23 (1) and (2) of subsection [1] 2 of this section, the health officer, local public health agency, public  
 24 health authority, or executive shall provide a report to the local elected governing body containing  
 25 information supporting the need for such order and may submit a draft order, which shall not have  
 26 any legal effect until it is approved by a vote of the local elected governing body taken in a session  
 27 that is open to the public. Such report shall include specific studies or other evidence relied upon in  
 28 the creation of the order, along with an explanation of the legal authority upon which the order is  
 29 based. Such report shall also include a summary of the general nature and extent of the comments  
 30 submitted in support of or opposition to the proposed order and a concise summary of the testimony  
 31 presented at all hearings in which the order was discussed. In addition, the report shall contain a  
 32 summary of the findings regarding the merits of any such testimony or comments submitted by  
 33 members of the public who are opposed, in whole or in part, to the proposed order.

34 ~~[5.]~~ 6. No [political subdivision] local elected governing body of this state shall make or  
 35 modify any orders that have the effect, directly or indirectly, of a prohibited order under this section.

36 ~~[6.]~~ 7. No directive, rule, or regulation issued by the department of health and senior  
 37 services shall authorize a local health official, health officer, local public health agency, or public  
 38 health authority to create or enforce any order, ordinance, rule, or regulation described in section  
 39 192.300 or this section that is inconsistent with the provisions of this section.

40 8. (1) No local elected governing body shall issue or authorize any order relating to a  
 41 statewide pandemic pursuant to this section unless the governor has, by executive order pursuant to  
 42 an emergency declared under chapter 44, directed the director of the department of health and senior  
 43 services to authorize, by written directive containing sufficiently specific criteria, local elected  
 44 governing bodies to issue or approve such order; except that, no such local order shall be more  
 45 expansive than the written directive issued by the department and shall be subject to review and  
 46 alteration by the director.

47 (2) Not less than thirty days after the issuance of a written directive by the director of the  
 48 department, as provided in this subsection, the department shall replace such directive with an  
 49 emergency rule promulgated as set forth in chapter 536.

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

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

5 9. Except as provided in subsection 11 of this section, the existence of a statewide pandemic  
 6 may be declared by the governor or the director of the department of health and senior services.  
 7 During a statewide pandemic, only the director shall have the authority to close a public or private  
 8 school or other place of public or private assembly or to reduce, alter, suspend, or otherwise restrict  
 9 the operations or hours thereof. The director shall consult with the local health authorities prior to  
 10 any closing.

11 10. (1) Any person aggrieved by the actions of a political subdivision, including its local  
 12 elected governing body, its officers, employees, or agents, in violation of this section shall have a  
 13 civil claim for damages against such political subdivision for:

14 (a) Injunctive relief;

15 (b) Treble compensatory damages;

16 (c) Punitive damages;

17 (d) Costs of litigation including, but not limited to, court costs and expert witness fees; and

18 (e) Reasonable attorneys fees.

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

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

24 (4) In any civil action filed by a person with standing or by the attorney general under this  
 25 section, upon a showing that a material fact is in dispute, the political subdivision shall bear the  
 26 burden of showing, by clear and convincing evidence, that its order was necessary to prevent the  
 27 actual or anticipated harm and that no less restrictive means to prevent such actual or anticipated  
 28 harm were available.

29 11. The general assembly may, by the passage of a concurrent resolution, declare the  
 30 existence of a statewide pandemic. Such resolution shall not extend the declaration of a statewide  
 31 pandemic for more than thirty days beyond the convening of the next regular session of the general  
 32 assembly but may by its own provisions specify the expiration date of the declaration prior to that  
 33 time. The general assembly may approve subsequent declarations in like manner and subject to the  
 34 same limitations.

35 67.308. 1. No county, city, town or village in this state receiving public funds shall require  
 36 documentation of an individual having received a vaccination against COVID-19 in order for the  
 37 individual to access transportation systems or services or any other public accommodations.

38 2. No private person, business, corporation, organization, or other nongovernment entity  
 39 shall be required to assist in any manner in the enforcement of any order issued pursuant to section  
 40 67.265, nor shall such person or entity suffer any adverse action including, but not limited to, a fine,  
 41 loss of a business license, closure, or citation for any such refusal to assist.

42 3. (1) Any person aggrieved by the actions of a political subdivision or any public official  
 43 under this section shall have a civil claim for damages against such political subdivision or public  
 44 official for:

45 (a) Injunctive relief;

46 (b) Treble compensatory damages;

47 (c) Punitive damages;

48 (d) Costs of litigation including, but not limited to, court costs and expert witness fees; and

49 (e) Reasonable attorneys fees.

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

3           (3) Venue for any civil action filed pursuant to this section or section 67.265 shall, at the  
 4 election of the aggrieved party, be the county in which the aggrieved party resides, the county where  
 5 the alleged harm occurred or Cole County.

6           (4) In any civil action filed by a person with standing or by the attorney general under this  
 7 section, upon a showing that a material fact is in dispute, the political subdivision shall bear the  
 8 burden of showing, by clear and convincing evidence, that its order was necessary to prevent the  
 9 actual or anticipated harm and that no less restrictive means to prevent such actual or anticipated  
 10 harm were available."; and

11  
 12 Further amend said bill, Page 5, 135.690, Line 108, by inserting after all of said section and line the  
 13 following:

14  
 15           "167.029. 1. A public school district may require students to wear a school uniform or  
 16 restrict student dress to a particular style in accordance with the law. The school district may  
 17 determine the style and color of the school uniform.

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

20           167.181. 1. The department of health and senior services, after consultation with the  
 21 department of elementary and secondary education, shall promulgate rules and regulations  
 22 governing the immunization against poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis,  
 23 diphtheria, and hepatitis B, to be required of children attending public, private, parochial or parish  
 24 schools. Such rules and regulations may modify the immunizations that are required of children in  
 25 this subsection. The immunizations required and the manner and frequency of their administration  
 26 shall conform to recognized standards of medical practice. The department of health and senior  
 27 services shall supervise and secure the enforcement of the required immunization program.

28           2. It is unlawful for any student to attend school unless he has been immunized as required  
 29 under the rules and regulations of the department of health and senior services, and can provide  
 30 satisfactory evidence of such immunization; except that if he produces satisfactory evidence of  
 31 having begun the process of immunization, he may continue to attend school as long as the  
 32 immunization process is being accomplished in the prescribed manner. It is unlawful for any parent  
 33 or guardian to refuse or neglect to have his child immunized as required by this section, unless the  
 34 child is properly exempted.

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

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

45           5. The immunization required may be done by any duly licensed physician or by someone  
 46 under his direction. If the parent or guardian is unable to pay, the child shall be immunized at public  
 47 expense by a physician or nurse at or from the county, district, city public health center or a school  
 48 nurse or by a nurse or physician in the private office or clinic of the child's personal physician with  
 49 the costs of immunization paid through the state Medicaid program, private insurance or in a

1 manner to be determined by the department of health and senior services subject to state and federal  
 2 appropriations, and after consultation with the school superintendent and the advisory committee  
 3 established in section 192.630. When a child receives his or her immunization, the treating  
 4 physician may also administer the appropriate fluoride treatment to the child's teeth.

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

8 7. No student shall be required, as a condition of school attendance or participation in  
 9 school-sponsored extracurricular activities, to be immunized against COVID 19. No school shall  
 10 require students to wear face masks or other face coverings or respirators as an alternative to  
 11 receiving a COVID-19 vaccination. No school shall require students to undergo COVID-19  
 12 diagnostic testing or otherwise implement a "test to stay" policy requiring testing as an alternative to  
 13 receiving a COVID-19 vaccination; provided, that nothing in this subsection shall be interpreted to  
 14 preclude a school from requiring a student to be tested as described in section 167.191 as a condition  
 15 for school attendance or participation in school-sponsored extracurricular activities. For purposes of  
 16 the section, "COVID 19" shall include any variant thereof.

17 8. No rule or portion of a rule promulgated under the authority of this section shall become  
 18 effective unless it has been promulgated pursuant to the provisions of chapter 536. Any rule or  
 19 portion of a rule, as that term is defined in section 536.010, that is created under the authority  
 20 delegated in this section shall become effective only if it complies with and is subject to all of the  
 21 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
 22 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to  
 23 review, to delay the effective date or to disapprove and annul a rule are subsequently held  
 24 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
 25 August 28, 2001, shall be invalid and void.

26 167.191. 1. It is unlawful for any child to attend any of the public schools of this state while  
 27 afflicted with any contagious or infectious disease, or while liable to transmit such disease after  
 28 having been exposed to it. For the purpose of determining the diseased condition, or the liability of  
 29 transmitting the disease, the teacher or board of directors may require any child to be examined by a  
 30 physician, physician assistant, or advanced practice registered nurse and exclude the child from  
 31 school so long as there is any liability of such disease being transmitted by the pupil. For purposes  
 32 of this section, the term "liability" shall mean that symptoms of such a contagious or infectious  
 33 disease are present and that disease transmission is more likely than not to occur. If the parent or  
 34 guardian refuses to have an examination made by a physician, physician assistant, or advanced  
 35 practice registered nurse pursuant to [at] the written request of [the teacher] a school administration  
 36 or school board of directors, the [teacher or board of directors] child may be [exclude the child]  
 37 excluded from school. Any parent or guardian who persists in sending a child to school, after  
 38 having been examined as provided by this section, and found to be afflicted with any contagious or  
 39 infectious disease, or liable to transmit the disease, or refuses to have the child examined as herein  
 40 provided, is guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less  
 41 than five nor more than one hundred dollars.

42 2. If the parent or guardian of the child presents a written document, signed by a physician,  
 43 physician assistant, or advanced practice registered nurse stating that the child is not afflicted with  
 44 any contagious or infectious disease, or liable to transmit the disease, the child shall not be excluded  
 45 from school under subsection 1."; and

46  
 47 Further amend said bill, Page 7, Section 167.630, Line 19, by inserting after all of said section and  
 48 line the following:  
 49

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

6 2. No school administrator, teacher, staff, or other personnel of any public school or charter  
7 school, nor any school board, shall have authority to adopt rules, regulations, policies, directives, or  
8 any other order relating to quarantines, isolation, or other health-related requirements for students  
9 except as provided in section 167.191; except that, nothing in this section or section 167.191 shall  
10 be construed to authorize any such order relating to masking or vaccinations.

11 3. During a statewide pandemic as defined in section 67.265, all generally applicable orders  
12 relating to the spread of an infectious or contagious disease shall be made by a local elected  
13 governing body as provided in section 67.265."; and

14  
15 Further amend said bill, Page 21, Section 192.005, Line 27, by inserting after all of said section and  
16 line the following:

17  
18 "192.290. All rules and regulations authorized and made by the department of health and  
19 senior services in accordance with this chapter shall supersede as to those matters to which this  
20 chapter relates, all local orders, ordinances, rules, and regulations and shall be observed throughout  
21 the state and enforced by all local and state health authorities. Nothing herein shall limit the right of  
22 local authorities under section 192.300 to make such further orders, ordinances, rules, and  
23 regulations not inconsistent with or more restrictive than the rules and regulations prescribed by the  
24 department of health and senior services, which may be necessary for the particular locality under  
25 the jurisdiction of such local authorities; except that, all such orders, ordinances, rules and  
26 regulations made by local authorities shall comply with the provisions of section 67.265."; and

27  
28 Further amend said bill by amending the title, enacting clause, and intersectional references  
29 accordingly.