

FIRST REGULAR SESSION

HOUSE BILL NO. 735

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES PHILLIPS (Sponsor) AND BYRD (Co-sponsor).

Read 1st time March 8, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2031L.011

AN ACT

To repeal sections 167.181 and 210.003, RSMo, and to enact in lieu thereof two new sections relating to child immunizations.

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

Section A. Sections 167.181 and 210.003, RSMo, are repealed and two new sections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

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, pertussis,
4 diphtheria, and hepatitis B, to be required of children attending public, private, parochial or
5 parish schools. Such rules and regulations may modify the **manner and frequency, including**
6 **zero frequency, of the** immunizations [that are required] of children **which are specified** in this
7 subsection. **Such rules shall not require immunizations not specified in this subsection.** The
8 immunizations required and the manner and frequency of their administration shall conform to
9 recognized standards of medical practice. The department of health and senior services shall
10 supervise and secure the enforcement of the required immunization program.

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

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.

17 immunized as required by this section, unless the child is properly exempted.

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

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

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

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

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 such
3 child has been adequately immunized against vaccine-preventable childhood illnesses specified
4 [by the department of health and senior services in accordance with recommendations of the
5 Immunization Practices Advisory Committee (ACIP)] **in section 167.181, RSMo. The**
6 **department of health and senior services may promulgate rules governing the manner and**
7 **frequency, including zero frequency, of the specified immunizations.** The parent or guardian
8 of such child shall provide satisfactory evidence of the required immunizations.

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

15 (2) The parent or guardian has signed and placed on file with the day care administrator
16 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 of
18 this section upon certification by a licensed physician that such immunization would seriously
19 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 immunization
22 with the day care administrator. Exemptions shall be accepted by the day care administrator
23 when the necessary information as determined by the department of health and senior services
24 is filed with the day care administrator by the parent or guardian. Exemption forms shall be
25 provided by the department of health and senior services.

26 3. In the event of an outbreak or suspected outbreak of a vaccine-preventable disease
27 within a particular facility, the administrator of the facility shall follow the control measures
28 instituted by the local health authority or the department of health and senior services or both the
29 local health authority and the department of health and senior services, as established in Rule 19
30 CSR 20-20.040, "Measures for the Control of Communicable Diseases".

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

37 5. For purposes of this section, satisfactory evidence of immunization means a statement,

38 certificate or record from a physician or other recognized health facility or personnel, stating that
39 the required immunizations have been given to the child and verifying the type of vaccine and
40 the month, day and year of administration.

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

43 **7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
44 **that is created under the authority delegated in this section shall become effective only if**
45 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
46 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
47 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
48 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
49 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
50 **adopted after August 28, 2005, shall be invalid and void.**