

SENATE BILL No. 315

By Committee on Federal and State Affairs

3-15

1 AN ACT concerning public health; relating to vaccinations; requirements
2 to attend child care facilities and elementary, secondary and public or
3 private postsecondary educational institutions; prohibiting an inquiry
4 into the sincerity of a request for an exemption from vaccine
5 requirements; repealing the meningitis vaccine requirement to live in
6 student housing; amending K.S.A. 65-508 and 72-6262 and K.S.A.
7 2022 Supp. 44-663 and repealing the existing sections; also repealing
8 K.S.A. 76-761a.
9

10 *Be it enacted by the Legislature of the State of Kansas:*

11 Section 1. K.S.A. 2022 Supp. 44-663 is hereby amended to read as
12 follows: 44-663. (a) Notwithstanding any provision of law to the contrary,
13 if an employer implements a ~~COVID-19~~ any vaccine requirement, the
14 employer shall exempt an employee from such requirement, without
15 punitive action, if the employee submits a written waiver request to the
16 employer stating that complying with such requirement would:

17 (1) Endanger the life or health of the employee or an individual who
18 resides with the employee, as evidenced by an accompanying written
19 statement signed by a physician or another person who performs acts
20 pursuant to practice agreements, protocols or at the order, direction or
21 delegation of a physician; or

22 (2) violate sincerely held religious beliefs of the employee, as
23 evidenced by an accompanying written statement signed by the employee.

24 (b) An employer shall grant an exemption requested in accordance
25 with this section based on sincerely held religious beliefs without inquiring
26 into the sincerity of the request.

27 (c) (1) An employee aggrieved by a violation of this section may file
28 a complaint with the secretary of labor alleging that an employer failed to
29 offer an exemption, improperly denied an exemption request, took punitive
30 action against the employee or committed any other violation of this
31 section.

32 (2) (A) The secretary of labor shall promptly commence an
33 investigation of each complaint filed pursuant to this subsection. The
34 secretary shall complete such investigation and issue a final order within
35 60 calendar days after the filing of the complaint. At a minimum, the
36 investigation shall determine whether:

- 1 (i) The employer imposed a ~~COVID-19~~ vaccine requirement;
- 2 (ii) the employee submitted a written waiver request in accordance
3 with this section; and
- 4 (iii) the employer committed any violation of this section.
- 5 (B) Upon completing the investigation, the secretary of labor shall
6 issue an order containing findings and conclusions as to whether the
7 employer violated this section and provide such order to the employee and
8 the employer. Such order is a final order for purposes of judicial review
9 and shall state the right of the employee or the employer to appeal as
10 provided in the Kansas judicial review act.
- 11 (C) If the secretary of labor issues a final order finding that an
12 employer violated this section, the secretary shall issue an order containing
13 such findings and provide such order to the employee, the employer and
14 the attorney general.
- 15 (3) (A) Except as provided in paragraph (3)(B), upon receipt of an
16 order from the secretary of labor pursuant to paragraph (2), the attorney
17 general shall secure enforcement of such order by filing an action in an
18 appropriate district court to impose civil penalties.
- 19 (B) The attorney general shall not file a civil action against an
20 employer if the employer reinstates the terminated employee with back
21 pay to the date that the complaint was received by the secretary of labor
22 under this subsection.
- 23 (C) In an action filed pursuant to this subsection, the court may
24 impose a civil penalty not to exceed:
- 25 (i) \$10,000 per violation for an employer with fewer than 100
26 employees; or
- 27 (ii) \$50,000 per violation for an employer with 100 or more
28 employees.
- 29 (D) In determining the amount of the civil penalty for a violation, the
30 court may consider the following factors:
- 31 (i) Whether the employer knowingly and willfully violated this
32 section;
- 33 (ii) whether the employer has shown good faith in attempting to
34 comply with this section;
- 35 (iii) whether the employer has taken action to correct the violation;
- 36 (iv) whether the employer has been previously assessed a civil
37 penalty for violating this section; and
- 38 (v) any other mitigating or aggravating factor that fairness or due
39 process requires.
- 40 (4) All civil penalties assessed and collected under this subsection
41 shall be remitted to the state treasurer in accordance with the provisions of
42 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
43 remittance, the state treasurer shall deposit the entire amount in the state

1 treasury to the credit of the employment security fund, established by
2 K.S.A. 44-712, and amendments thereto.

3 (d) As used in this section:

4 ~~(1) "COVID-19 vaccine" means an immunization, vaccination or~~
5 ~~injection against disease caused by the novel coronavirus identified as~~
6 ~~SARS-CoV-2 or disease caused by a variant of the virus;~~

7 ~~(2) "COVID-19 vaccine requirement" means that an employer:~~

8 ~~(A) Requires an employee to receive a COVID-19 vaccine;~~

9 ~~(B) requires an employee to provide documentation certifying receipt~~
10 ~~of a COVID-19 vaccine; or~~

11 ~~(C) enforces a requirement described in subparagraph (A) or (B) that~~
12 ~~is imposed by the federal government or any other entity;~~

13 ~~(3) "Employee" means:~~

14 ~~(A) An individual who is employed in this state for wages by an~~
15 ~~employer;~~

16 ~~(B) an applicant for employment by an employer; or~~

17 ~~(C) a noncompensated intern or apprentice for an employer; or~~

18 ~~(D) a student attending a public or nonpublic high school or a~~
19 ~~postsecondary educational institution who, as part of coursework,~~
20 ~~interacts with patients and delivers care at a healthcare facility under the~~
21 ~~supervision of an individual licensed to provide such patient care.~~

22 ~~(4)(2) "employer" means any person in this state who employs one or~~
23 ~~more persons and includes the state of Kansas and all political~~
24 ~~subdivisions of the state;~~

25 ~~(5)(3) "person" means an individual, partnership, association,~~
26 ~~organization, corporation, legal representative, trustee, trustee in~~
27 ~~bankruptcy or receiver;~~

28 ~~(6)(4) "physician" means an individual licensed by the state board of~~
29 ~~healing arts to practice medicine and surgery;~~

30 ~~(7)(5) "punitive action" means any of the following actions related to~~
31 ~~the employee's exemption request: Dismissal, demotion, transfer,~~
32 ~~reassignment, suspension, reprimand, warning of possible dismissal,~~
33 ~~withholding of work or assessing any monetary penalty or unreasonable~~
34 ~~charge; and~~

35 ~~(8)(6) "religious beliefs" includes, but is not limited to, theistic and~~
36 ~~non-theistic moral and ethical beliefs as to what is right and wrong that are~~
37 ~~sincerely held with the strength of traditional religious views; and~~

38 ~~(7) "vaccine" means an immunization, vaccination, injection or series~~
39 ~~thereof that is administered to stimulate immunity against a particular~~
40 ~~disease.~~

41 Sec. 2. K.S.A. 65-508 is hereby amended to read as follows: 65-508.

42 (a) ~~Any~~A maternity center or child care facility subject to the provisions of
43 this act shall:

- 1 (1) Be properly heated, plumbed, lighted and ventilated;
2 (2) have plumbing, water and sewerage systems ~~which~~ *that* conform
3 to all applicable state and local laws; and
4 (3) be operated with strict regard to the health, safety and welfare of
5 any woman or child.

6 (b) Every maternity center or child care facility shall furnish or cause
7 to be furnished for the use of each resident and employee individual towel,
8 ~~wash-cloth~~ *washcloth*, comb and individual drinking cup or sanitary
9 bubbling fountain, and toothbrushes for all other than infants, and shall
10 keep or require such articles to be kept at all times in a clean and sanitary
11 condition. Every maternity center or child care facility shall comply with
12 all applicable fire codes and rules and regulations of the state fire marshal.

13 (c) (1) The secretary of health and environment with the cooperation
14 of the secretary for children and families shall develop and adopt rules and
15 regulations for the operation and maintenance of maternity centers and
16 child care facilities. The rules and regulations for operating and
17 maintaining maternity centers and child care facilities shall be designed to
18 promote the health, safety and welfare of any woman or child served in
19 such facilities by ensuring safe and adequate physical surroundings,
20 healthful food, adequate handwashing, safe storage of toxic substances and
21 hazardous chemicals, sanitary diapering and toileting, home sanitation,
22 supervision and care of the residents by capable, qualified persons of
23 sufficient number, after-hour care, an adequate program of activities and
24 services, sudden infant death syndrome and safe sleep practices training,
25 prohibition on corporal punishment, crib safety, protection from electrical
26 hazards, protection from swimming pools and other water sources, fire
27 drills, emergency plans, safety of outdoor playground surfaces, door locks,
28 safety gates and transportation and such appropriate parental participation
29 as may be feasible under the circumstances. Boarding schools are excluded
30 from requirements regarding the number of qualified persons who must
31 supervise and provide care to residents.

32 (2) Rules and regulations developed under this subsection shall
33 include provisions for the competent supervision and care of children in
34 day care facilities. For purposes of such rules and regulations, competent
35 supervision as this term relates to children less than five years of age
36 includes, but is not limited to, direction of activities, adequate oversight
37 including sight or sound monitoring, or both, physical proximity to
38 children, diapering and toileting practices; and for all children, competent
39 supervision includes, but is not limited to, planning and supervision of
40 daily activities, safe sleep practices, including, but not limited to, visual or
41 sound monitoring, periodic checking, emergency response procedures and
42 drills, illness and injury response procedures, food service preparation and
43 sanitation, playground supervision, pool and water safety practices.

1 (d) In addition to any rules and regulations adopted under this section
 2 for safe sleep practices, child care facilities shall ensure that all of the
 3 following requirements are met for children under 12 months of age:

4 (1) A child shall only be placed to sleep on a surface and in an area
 5 that has been approved for use as such by the secretary of health and
 6 environment;

7 (2) the sleep surface shall be free from soft or loose bedding,
 8 including, but not limited to, blankets, bumpers and pillows; and

9 (3) the sleep surface shall be free from toys, including mobiles and
 10 other types of play equipment or devices.

11 (e) Child care facilities shall ensure that children over 12 months of
 12 age only be placed to sleep on a surface and in an area that has been
 13 approved for use as such by the secretary of health and environment.

14 (f) The secretary of health and environment may exercise discretion
 15 to make exceptions to requirements in subsections (d) and (e) where
 16 special health needs exist.

17 (g) Each child cared for in a child care facility, including children of
 18 the person maintaining the facility, shall be required to have current such
 19 immunizations as the secretary of health and environment considers
 20 necessary. The person maintaining a child care facility shall maintain a
 21 record of each child's immunizations and shall provide to the secretary of
 22 health and environment such information relating thereto, in accordance
 23 with rules and regulations of the secretary, but the person maintaining a
 24 child care facility shall not have such person's license revoked solely for
 25 the failure to have or to maintain the immunization records required by
 26 this subsection.

27 (h) (1) The immunization requirement of subsection (g) shall not
 28 apply if one of the following is obtained:

29 ~~(A)~~ (A) Certification from a licensed physician stating that the physical
 30 condition of the child is such that immunization would endanger the child's
 31 life or health; or

32 ~~(B)~~ (B) a written statement signed by ~~a~~ *at least one* parent or guardian
 33 stating that *the requirement would violate sincerely held religious beliefs*
 34 *of the parent or guardian* ~~is an adherent of a religious denomination whose~~
 35 ~~teachings are opposed to immunizations.~~

36 (2) *The person maintaining a child care facility shall grant an*
 37 *exemption requested in accordance with this subsection based on sincerely*
 38 *held religious beliefs without inquiring into the sincerity of the request.*

39 (3) *As used in this section, "religious beliefs" includes, but is not*
 40 *limited to, theistic and non-theistic moral and ethical beliefs as to what is*
 41 *right and wrong that are sincerely held with the strength of traditional*
 42 *religious views.*

43 Sec. 3. K.S.A. 72-6262 is hereby amended to read as follows: 72-

1 6262. (a) In each school year, every ~~pupil~~ *student* enrolling or enrolled in
 2 any school for the first time in this state, and each child enrolling or
 3 enrolled for the first time in a preschool or day care program operated by a
 4 school, and such other ~~pupils~~ *students* as may be designated by the
 5 secretary, prior to admission to and attendance at school, shall present to
 6 the appropriate school board certification from a physician or local health
 7 department that the ~~pupil~~ *student* has received such tests and inoculations
 8 as are deemed necessary by the secretary by such means as are approved
 9 by the secretary. ~~Pupils~~ *Students* who have not completed the required
 10 inoculations may enroll or remain enrolled while completing the required
 11 inoculations if a physician or local health department certifies that the
 12 ~~pupil~~ *student* has received the most recent appropriate inoculations in all
 13 required series. Failure to timely complete all required series shall be
 14 deemed non-compliance.

15 (b) (1) As an alternative to the certification required under subsection
 16 (a), a ~~pupil~~ *student* shall present:

17 ~~(A)~~ (A) An annual written statement signed by a licensed physician
 18 stating the physical condition of the child ~~to be~~ *is* such that the tests or
 19 inoculations would seriously endanger the life or health of the child; or

20 ~~(B)~~ (B) a written statement signed by ~~one~~ *at least one* parent or
 21 guardian *stating that the requirement would violate sincerely held religious*
 22 *beliefs of the child is an adherent of a religious denomination whose*
 23 *religious teachings are opposed to such tests or inoculations.*

24 (2) *The board of education of a school district shall grant such*
 25 *alternative to the certification presented in this subsection based on*
 26 *sincerely held religious beliefs without inquiring into the sincerity of the*
 27 *request.*

28 (3) *As used in this section, "religious beliefs" includes, but is not*
 29 *limited to, theistic and non-theistic moral and ethical beliefs as to what is*
 30 *right and wrong that are sincerely held with the strength of traditional*
 31 *religious views.*

32 (c) On or before May 15 of each school year, the school board of
 33 every school affected by this act shall notify the parents or guardians of all
 34 known ~~pupils~~ *students* who are enrolled or who will be enrolling in the
 35 school of the provisions this act and any policy regarding the
 36 implementation of the provisions of this act adopted by the school board.

37 (d) If a ~~pupil~~ *student* transfers from one school to another, the school
 38 from which the ~~pupil~~ *student* transfers shall forward with the ~~pupil's~~
 39 *student's* transcript the certification or statement showing evidence of
 40 compliance with the requirements of this act to the school to which the
 41 ~~pupil~~ *student* transfers.

42 Sec. 4. K.S.A. 65-508, 72-6262 and 76-761a and K.S.A. 2022 Supp.
 43 44-663 are hereby repealed.

1 Sec. 5. This act shall take effect and be in force from and after its
2 publication in the statute book.