AN ACT relating to exceptions to mandatory immunization requirements and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 214.036 is amended to read as follows:

(1) Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 shall be construed to require:

(a) The testing for tuberculosis or the immunization of any child at a time when, in the written opinion of his or her attending medical provider, such testing or immunization would be injurious to the child's health.

(b) The immunization of any child whose parents or guardian are opposed to medical immunization against disease, and who object by a written sworn statement to the immunization of such child on religious grounds. Provided, however, that based on religious grounds or conscientiously held beliefs; or

(c) The immunization of any emancipated minor or adult who is opposed to medical immunization against disease, and who objects by a written sworn statement to the immunization based on religious grounds or conscientiously held beliefs.

(2) In the event of an epidemic in a given area, the Cabinet for Health and Family Services may require the immunization of all persons within the area of epidemic, against the disease responsible for such epidemic, except that any administrative regulation promulgated pursuant to KRS Chapter 13A, administrative order issued by the cabinet, or executive order issued pursuant to KRS Chapter 39A requiring such immunization shall not include:

(a) The immunization of any child or adult for whom, in the written opinion of his or her attending medical provider, such testing or immunization would
be injurious to his or her health;

(b) The immunization of any child whose parents or guardians are opposed to medical immunization against disease and who object by a written sworn statement to the immunization based on religious grounds or conscientiously held beliefs; or

(c) The immunization of any emancipated minor or adult who is opposed to medical immunization against disease, and who objects by a written sworn statement to the immunization based on religious grounds or conscientiously held beliefs.

(3) The cabinet shall:

(a) Develop and make available on its Web site a standardized form relating to exemptions in this section from the immunization requirements; and

(b) Accept a completed standardized form when submitted.

Section 2. KRS 209.552 is amended to read as follows:

(1) Every long-term care facility shall require residents to be immunized against pneumococcal disease and influenza. Upon admission, the long-term care facility shall:

(a) Notify the resident of the requirements of this section and request that the resident agree to be immunized against pneumococcal disease and influenza virus;

(b) Assess the resident's immunization status for influenza virus and pneumococcal disease;

(c) Counsel each resident on the risks of influenza and pneumococcal disease; the efficacy, side effects, and contraindications of these immunizations; and the recommendations of the Centers for Disease Control prior to administration of the vaccines; and

(d) Provide or arrange for immunizations against pneumococcal and influenza in
accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control, unless medically contraindicated, if the resident or long-term care facility does not have documentation of the immunization.

(2) Every long-term care facility shall document immunization against influenza virus every influenza season, by October 15 or upon admission, whichever comes later, and pneumococcal immunization for each resident. Upon finding that a resident lacks either of these immunizations, the facility shall provide or arrange for the immunization in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control, unless medically contraindicated.

(3) Every long-term care facility shall require each employee, regardless of employment status, to be immunized against pneumococcal and influenza virus. Upon employment, the long-term care facility shall:

(a) Notify the employee of the requirements of this section and request that the employee agree to be immunized against pneumococcal disease and influenza virus;

(b) Assess the employee's immunization status for influenza virus and pneumococcal disease;

(c) Counsel each employee on the risks of influenza and pneumococcal disease; the efficacy, side effects, and contraindications of these immunizations; and the recommendations of the Centers for Disease Control prior to administration of the vaccines; and

(d) Provide or arrange for immunizations against pneumococcal and influenza in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control, unless medically contraindicated, if the employee or the long-term care facility does not have
documentation of the appropriate immunizations.

(4) Every long-term care facility shall document immunization against influenza virus every influenza season, by October 15 or upon employment, whichever comes later, and pneumococcal immunization for each employee. Upon finding that an employee lacks either of these immunizations, the facility shall provide or arrange for immunization in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control, unless medically contraindicated.

(5) The provisions of this section shall not apply if:

(a) The vaccine is medically contraindicated;

(b) The employee, resident, or resident's legal guardian objects to the immunizations due to religious grounds or conscientiously held beliefs; or

(c) The employee or resident refuses the vaccine after being fully informed of the health risks.

Section 3. KRS 214.034 is amended to read as follows:

Except as otherwise provided in KRS 214.036:

(1) All parents, guardians, and other persons having care, custody, or control of any child shall have the child immunized against diphtheria, tetanus, poliomyelitis, pertussis, measles, rubella, mumps, hepatitis B, and haemophilus influenzae disease in accordance with testing and immunization schedules established by regulations of the Cabinet for Health and Family Services. Additional immunizations may be required by the Cabinet for Health and Family Services through the promulgation of an administrative regulation pursuant to KRS Chapter 13A if recommended by the United States Public Health Service or the American Academy of Pediatrics. All parents, guardians, and other persons having care, custody, or control of any child shall also have any child found to be infected with tuberculosis examined and treated according to administrative regulations of the Cabinet for Health and Family Services.
services promulgated under KRS Chapter 13A. The persons shall also have booster
immunizations administered to the child in accordance with the regulations of the
Cabinet for Health and Family Services.

(2) A local health department may, with the approval of the Department of Public
Health, require all first-time enrollees in a public or private school within the health
department's jurisdiction to be tested for tuberculosis prior to entering school.
Following the first year of school, upon an epidemiological determination made by
the state or local health officer in accordance with administrative regulations
promulgated by the Cabinet for Health and Family Services, all parents, guardians,
and other persons having care, custody, or control of any child shall have the child
tested for tuberculosis, and shall have any child found to be infected with
tuberculosis examined and treated according to administrative regulations of the
Cabinet for Health and Family Services. Nothing in this section shall be construed
to require the testing for tuberculosis of any child whose parent or guardian is
opposed to such testing, and who objects by a written sworn statement to the testing
for tuberculosis of the child on religious grounds or conscientiously held beliefs.
However, in a suspected case of tuberculosis, a local health department may require
testing of this child.

(3) All public or private primary or secondary schools, and preschool programs shall
require a current immunization certificate for any child enrolled as a regular
attendee, as provided by administrative regulation of the Cabinet for Health and
Family Services, promulgated under KRS Chapter 13A, to be on file within two (2)
weeks of the child's attendance.

(4) All public or private primary schools shall require a current immunization
certificate for hepatitis B for any child enrolled as a regular attendee in the sixth
grade, as provided by administrative regulation of the Cabinet for Health and
Family Services, promulgated under KRS Chapter 13A, to be on file within two (2)
weeks of the child's attendance.

(5) For each child cared for in a day-care center, certified family child-care home, or any other licensed facility which cares for children, a current immunization certificate, as provided by administrative regulation of the Cabinet for Health and Family Services, promulgated under KRS Chapter 13A, shall be on file in the center, home, or facility within thirty (30) days of entrance into the program or admission to the facility.

(6) Any forms relating to exemption from immunization requirements shall be available at public or private primary or secondary schools, preschool programs, day-care centers, certified family child-care homes, or other licensed facilities which care for children.

Section 4. Whereas the civil rights of Kentucky's citizens are to remain protected against mandatory immunization requirements during an epidemic, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.