

SENATE BILL No. 466

By Committee on Federal and State Affairs

2-8

1 AN ACT concerning public health; relating to responses to infectious or
2 contagious disease by certain public and private entities; prohibiting
3 certain acts by places of public accommodations based upon a person's
4 vaccination status or possession of an immunity passport; prohibiting
5 governing bodies of any city or county, public officials of any city or
6 county and local health officers from requiring that a person wear a
7 face mask based on an epidemic or other public health reason;
8 amending K.S.A. 2021 Supp. 65-201 and 65-202 and repealing the
9 existing sections.

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

12 New Section 1. (a) Notwithstanding any provision of law to the
13 contrary, it shall be unlawful for a place of public accommodations to
14 refuse to provide any service, product, admission to a venue or
15 transportation to a person based on such person's vaccination status or
16 whether such person has an immunity passport.

17 (b) Violation of any provision of this section is a class A nonperson
18 misdemeanor.

19 (c) As used in this section:

20 (1) "Immunity passport" means a document, digital record or
21 software application indicating that a person is immune to a disease, either
22 through vaccination or infection and recovery.

23 (2) "Public accommodations" means the same as defined in K.S.A.
24 44-1002, and amendments thereto.

25 (3) "Vaccination status" means an indication of whether a person has
26 received one or more doses of a vaccine.

27 New Sec. 2. (a) Notwithstanding any provision of law to the contrary,
28 the governing body of any city or county or a public official of any city or
29 county shall not order or otherwise require that a person wear a face mask
30 based on an epidemic or other public health reason.

31 (b) Violation of any provision of this section is a class A nonperson
32 misdemeanor.

33 Sec. 3. K.S.A. 2021 Supp. 65-201 is hereby amended to read as
34 follows: 65-201. (a) The board of county commissioners of each county
35 shall act as the county board of health for the county. Each county board
36 shall appoint a person licensed to practice medicine and surgery,

1 preference being given to persons who have training in public health, who
2 shall serve as the local health officer and who shall act in an advisory
3 capacity to the county board of health. The appointing authority of city-
4 county, county or multicounty health units with less than 100,000
5 population may appoint a qualified local health program administrator as
6 the local health officer if a person licensed to practice medicine and
7 surgery or person licensed to practice dentistry is designated as a
8 consultant to direct the administrator on program and related medical and
9 professional matters. The local health officer or local health program
10 administrator shall hold office at the pleasure of the board.

11 (b) (1) Except as provided in paragraph (2), any order issued by the
12 local health officer, including orders issued as a result of an executive
13 order of the governor, may be reviewed, amended or revoked by the board
14 of county commissioners of the county affected by such order at a meeting
15 of the board. Any order reviewed or amended by the board shall include an
16 expiration date set by the board and may be amended or revoked at an
17 earlier date by a majority vote of the board.

18 (2) *Except as provided in section 2, and amendments thereto*, if a
19 local health officer determines it is necessary to issue an order ~~mandating~~
20 ~~the wearing of face masks~~, limiting the size of gatherings of individuals,
21 curtailing the operation of business, controlling the movement of the
22 population of the county or limiting religious gatherings, the local health
23 officer shall propose such an order to the board of county commissioners.
24 At the next regularly scheduled meeting of the board or at a special
25 meeting of the board, the board shall review such proposed order and may
26 take any action related to the proposed order the board determines is
27 necessary. The order shall become effective if approved by the board or,
28 if the board is unable to meet, if approved by the chairperson of the board or
29 the vice chairperson of the board in the chairperson's absence or disability.

30 (c) The board of county commissioners in any county having a
31 population of less than 15,000 may contract with the governing body of
32 any hospital located in such county for the purpose of authorizing such
33 governing body of the hospital to supply services to a county board of
34 health.

35 (d) (1) Any party aggrieved by an order issued pursuant to subsection
36 (b)(2) may file a civil action in the district court of the county in which the
37 order was issued within 30 days after such order is issued.
38 Notwithstanding any order issued pursuant to K.S.A. 2021 Supp. 20-
39 172(a), and amendments thereto, the court shall conduct a hearing within
40 72 hours after receipt of a petition in any such action. The court shall grant
41 the request for relief unless the court finds such order is narrowly tailored
42 to the purpose stated in the order and uses the least restrictive means to
43 achieve such purpose. The court shall issue an order on such petition

1 within seven days after the hearing is conducted. If the court does not issue
2 an order on such petition within seven days, the relief requested in the
3 petition shall be granted.

4 (2) Relief under this section shall not include a stay or injunction
5 concerning the contested action that applies beyond the county in which
6 the action was taken.

7 (3) The supreme court may adopt emergency rules of procedure to
8 facilitate the efficient adjudication of any hearing requested under this
9 subsection, including, but not limited to, rules for consolidation of similar
10 hearings.

11 Sec. 4. K.S.A. 2021 Supp. 65-202 is hereby amended to read as
12 follows: 65-202. (a) (1) The local health officer in each county throughout
13 the state, immediately after such officer's appointment, shall take the same
14 oath of office prescribed by law for the county officers, shall give bond of
15 \$500 conditioned for the faithful performance of the officer's duties, shall
16 keep an accurate record of all the transactions of such office, shall turn
17 over to the successor in office or to the county or joint board of health
18 selecting such officer, on the expiration of such officer's term of office, all
19 records, documents and other articles belonging to the office and shall
20 faithfully account to *the* board of county commissioners and to the county
21 and state for all moneys coming into the office. Such officer shall notify
22 the secretary of health and environment of such officer's appointment and
23 qualification, and provide the secretary with such officer's contact
24 information.

25 (2) Such officer shall receive and distribute without delay in the
26 county all forms from the secretary of health and environment to the
27 rightful persons, all returns from persons licensed to practice medicine and
28 surgery, assessors and local boards to said secretary, shall keep an accurate
29 record of all of the transactions of such office and shall turn over all
30 records and documents kept by such officer, the successor in office, or to
31 the county or joint board electing such officer, on the expiration of the
32 term of office.

33 (3) The local health officer shall upon the opening of the fall term of
34 school, make a sanitary inspection of each school building and grounds,
35 and shall make such additional inspections as are necessary to protect the
36 public health of the students of the school.

37 ~~(e)(b)~~ (1) ~~Such~~ *The local health* officer shall make an investigation of
38 each case of smallpox, diphtheria, typhoid fever, scarlet fever, acute
39 anterior poliomyelitis (infantile paralysis), epidemic cerebro-spinal
40 meningitis and such other acute infectious, contagious or communicable
41 diseases as may be required, and, *except as provided in section 2, and*
42 *amendments thereto*, shall: (A) Use all known measures to prevent the
43 spread of any such infectious, contagious or communicable disease; and

1 shall (B) perform such other duties as this act, the county or joint board,
2 board of health or the secretary of health and environment may require.

3 (2) Any order issued by the local health officer, including orders
4 issued as a result of an executive order of the governor, on behalf of a
5 county regarding the remediation of any infectious, *contagious or*
6 *communicable* disease may be reviewed, amended or revoked by the board
7 of county commissioners of any county affected by such order in the
8 manner provided by K.S.A. 65-201(b), and amendments thereto.

9 (c) Such officer shall receive compensation as set by the board and
10 with the approval of the board of health may employ a skilled professional
11 nurse and other additional personnel whenever deemed necessary for the
12 protection of the public health.

13 (d) For any failure or neglect of the local health officer to perform
14 any of the duties prescribed in this act, the officer may be removed from
15 office by the county board of health. In addition to removal from office,
16 for any failure or neglect to perform any of the duties prescribed by this
17 act, the local health officer shall be deemed guilty of ~~a~~ *an unclassified*
18 misdemeanor and, upon conviction, be fined not less \$10 nor more than
19 \$100 for each and every offense.

20 Sec. 5. K.S.A. 2021 Supp. 65-201 and 65-202 are hereby repealed.

21 Sec. 6. This act shall take effect and be in force from and after its
22 publication in the Kansas register.