

SECOND REGULAR SESSION

# HOUSE BILL NO. 1960

## 101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MURPHY.

3264H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal sections 67.265 and 192.300, RSMo, and to enact in lieu thereof four new sections relating to masking orders.

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

Section A. Sections 67.265 and 192.300, RSMo, are repealed and four new sections  
2 enacted in lieu thereof, to be known as sections 67.265, 67.267, 191.245, and 192.300, to read  
3 as follows:

67.265. 1. For purposes of this section, the term "order" shall mean a public health  
2 order, ordinance, rule, or regulation issued by a political subdivision, including by a health  
3 officer, local public health agency, public health authority, or the political subdivision's  
4 executive, as such term is defined in section 67.750, in response to an actual or perceived  
5 threat to public health for the purpose of preventing the spread of a contagious disease;  
6 **except that, the term "order" shall not include any masking order, as defined in section**  
7 **67.267.** Notwithstanding any other provision of law to the contrary:

8 (1) Any order issued during and related to an emergency declared pursuant to chapter  
9 44 that directly or indirectly closes, partially closes, or places restrictions on the opening of or  
10 access to any one or more business organizations, churches, schools, or other places of public  
11 or private gathering or assembly, including any order, ordinance, rule, or regulation of general  
12 applicability or that prohibits or otherwise limits attendance at any public or private  
13 gatherings, shall not remain in effect for longer than thirty calendar days in a one hundred  
14 eighty-day-period, including the cumulative duration of similar orders issued concurrently,  
15 consecutively, or successively, and shall automatically expire at the end of the thirty days or  
16 as specified in the order, whichever is shorter, unless so authorized by a simple majority vote

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 of the political subdivision's governing body to extend such order or approve a similar order;  
18 provided that such extension or approval of similar orders shall not exceed thirty calendar  
19 days in duration and any order may be extended more than once; and

20 (2) Any order of general applicability issued at a time other than an emergency  
21 declared pursuant to chapter 44 that directly or indirectly closes an entire classification of  
22 business organizations, churches, schools, or other places of public or private gathering or  
23 assembly shall not remain in effect for longer than twenty-one calendar days in a one hundred  
24 eighty-day-period, including the cumulative duration of similar orders issued concurrently,  
25 consecutively, or successively, and shall automatically expire at the end of the twenty-one  
26 days or as specified in the order, whichever is shorter, unless so authorized by a two-thirds  
27 majority vote of the political subdivision's governing body to extend such order or approve a  
28 similar order; provided that such extension or approval of similar orders may be extended  
29 more than once.

30 2. The governing bodies of the political subdivisions issuing orders under this section  
31 shall at all times have the authority to terminate an order issued or extended under this section  
32 upon a simple majority vote of the body.

33 3. In the case of local public health agencies created through an agreement by  
34 multiple counties under chapter 70, all of the participating counties' governing bodies shall be  
35 required to approve or terminate orders in accordance with the provisions of this section.

36 4. Prior to or concurrent with the issuance or extension of any order under  
37 subdivisions (1) and (2) of subsection 1 of this section, the health officer, local public health  
38 agency, public health authority, or executive shall provide a report to the governing body  
39 containing information supporting the need for such order.

40 5. No political subdivision of this state shall make or modify any orders that have the  
41 effect, directly or indirectly, of a prohibited order under this section.

42 6. No rule or regulation issued by the department of health and senior services shall  
43 authorize a local health official, health officer, local public health agency, or public health  
44 authority to create or enforce any order, ordinance, rule, or regulation described in section  
45 192.300 or this section that is inconsistent with the provisions of this section.

**67.267. 1. For purposes of this section, the following terms mean:**

2 (1) "Local governing body", any city council, county commission, board of  
3 aldermen, county council, township board, board of education, or county health center  
4 board established under chapter 205;

5 (2) "Local government entity", any municipality, county, city, town, village,  
6 school district, county health center established under chapter 205, county health  
7 department, combined city and county health department or agency, multicounty health  
8 department or agency, or any other local public health authority or agency;

9           (3) "Local government official", any mayor, county executive, presiding  
10 commissioner, school superintendent, health officer, or any other official to whom a local  
11 governing body or local government entity has delegated the power to issue public  
12 health orders, ordinances, rules, or regulations;

13           (4) "Masking order", a public health order, ordinance, rule, or regulation  
14 requiring the wearing of masks that is issued by a local government entity, local  
15 governing body, or local government official in response to an actual or perceived threat  
16 to public health for the purpose of preventing the spread of a contagious disease.

17           2. A masking order shall require individuals to wear:

18           (1) An N95 mask;

19           (2) An N99 mask;

20           (3) An N100 mask;

21           (4) A P95 mask;

22           (5) A P100 mask;

23           (6) An R95 mask; or

24           (7) An R100 mask.

25           3. A masking order shall not allow any mask other than the types of masks  
26 described in subsection 2 of this section to satisfy the mask-wearing requirement in the  
27 order.

28           4. A masking order shall require any facility subject to the order to post at all  
29 the entrances to its facility instructions for proper fitting and placement of masks and  
30 for proper disposal of masks that are consistent with guidance from the Centers for  
31 Disease Control and Prevention.

32           5. A masking order shall not require children under six years of age to wear  
33 masks.

34           6. A masking order shall not exceed thirty calendar days in duration but may be  
35 renewed, with each renewal not to exceed thirty calendar days in duration. There shall  
36 be no limit to the number of times the masking order may be renewed.

37           7. A masking order shall include a procedure by which individuals may obtain  
38 an exemption from the masking order for medical or religious reasons.

39           8. A local government entity, local governing body, or local government official  
40 shall not issue a masking order that violates the provisions of section 191.245.

41           9. Any local government entity or local governing body that issues a masking  
42 order or for which a masking order is issued by a local government official on its behalf  
43 shall ensure that masks described in subsection 2 of this section are made available for  
44 free to all individuals subject to the masking order.

45           **10. Notwithstanding sections 537.600 to 537.650 or any other provision of law,**  
46 **any local government entity or local governing body that issues a masking order or for**  
47 **which a masking order is issued by a local government official on its behalf shall assume**  
48 **all liability for any medical condition caused by the mask-wearing required in the order.**

49           **11. Any school district or charter school whose students are required to wear**  
50 **masks during school hours in accordance with a masking order shall offer a remote**  
51 **learning option to any student who does not wish to comply with the masking order.**

52           **12. A masking order shall include recommendations on social distancing and**  
53 **handwashing.**

54           **13. Nothing in this section shall be construed to alter or override any powers**  
55 **exercised by the governor or state government officials in an emergency, as defined in**  
56 **section 44.010.**

57           **14. The provisions of any masking requirement issued by the governor or state**  
58 **government officials shall supersede any contradicting provisions of any masking order**  
59 **issued by a local government entity, local governing body, or local government official.**

**191.245. 1. For purposes of this section, the following terms mean:**

2           **(1) "Government building", a building owned or operated by a public entity;**

3           **(2) "Masking order":**

4           **(a) A masking order as defined in section 67.267; or**

5           **(b) A public health order, rule, or regulation requiring the wearing of masks that**  
6 **is issued by an agency or instrumentality of the state government in response to an**  
7 **actual or perceived threat to public health for the purpose of preventing the spread of a**  
8 **contagious disease;**

9           **(3) "Political subdivision", any municipality, school district, special district,**  
10 **local governmental body, county, city, town, or village;**

11           **(4) "Public area", an area that is open to the general public;**

12           **(5) "Public entity":**

13           **(a) Any agency or instrumentality of the state government; or**

14           **(b) Any political subdivision or agency or instrumentality thereof.**

15           **2. A masking order shall not apply to any public area in a government building**  
16 **unless the masking order is issued by the governor or state government officials in**  
17 **accordance with a state of emergency declared under chapter 44.**

**192.300. 1. The county commissions and the county health center boards of the**  
2 **several counties may make and promulgate orders, ordinances, rules or regulations,**  
3 **respectively as will tend to enhance the public health and prevent the entrance of infectious,**  
4 **contagious, communicable or dangerous diseases into such county, but any orders,**  
5 **ordinances, rules or regulations shall not:**

6 (1) Be in conflict with any rules or regulations authorized and made by the  
7 department of health and senior services in accordance with this chapter or by the department  
8 of social services under chapter 198; or

9 (2) Impose standards or requirements on an agricultural operation and its  
10 appurtenances, as such term is defined in section 537.295, that are inconsistent with, in  
11 addition to, different from, or more stringent than any provision of this chapter or chapters  
12 260, 640, 643, and 644, or any rule or regulation promulgated under such chapters.

13 2. The county commissions and the county health center boards of the several  
14 counties may establish reasonable fees to pay for any costs incurred in carrying out such  
15 orders, ordinances, rules or regulations, however, the establishment of such fees shall not  
16 deny personal health services to those individuals who are unable to pay such fees or impede  
17 the prevention or control of communicable disease. Fees generated shall be deposited in the  
18 county treasury. All fees generated under the provisions of this section shall be used to  
19 support the public health activities for which they were generated.

20 3. After the promulgation and adoption of such orders, ordinances, rules or  
21 regulations by such county commission or county health board, such commission or county  
22 health board shall make and enter an order or record declaring such orders, ordinances, rules  
23 or regulations to be printed and available for distribution to the public in the office of the  
24 county clerk, and shall require a copy of such order to be published in some newspaper in the  
25 county in three successive weeks, not later than thirty days after the entry of such order,  
26 ordinance, rule or regulation.

27 4. Any person, firm, corporation or association which violates any of the orders or  
28 ordinances adopted, promulgated and published by such county commission is guilty of a  
29 misdemeanor and shall be prosecuted, tried and fined as otherwise provided by law. The  
30 county commission or county health board of any such county has full power and authority to  
31 initiate the prosecution of any action under this section.

32 5. Any orders, ordinances, rules, or regulations made and promulgated under the  
33 authority in this section shall comply with the provisions of ~~[section]~~ sections 67.265 and  
34 67.267.

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