



**Senate Committee on Commerce
Testimony in Opposition to Senate Bill 213
Presented by Eric Stafford, Vice President of Government Affairs, Kansas Chamber**

Thursday, February 25, 2021

Mister Chairman and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber. The Kansas Chamber represents small, medium and large businesses of all industry segments across the state. We appreciate the opportunity to testify in opposition to Senate Bill 213, which creates penalties against employers for taking action against a person over their vaccination status.

We have several objections to this piece of legislation. First and foremost, we believe in the right of employers to determine their own policies for employees. It is not unlawful for employers to mandate vaccines under the Americans with Disabilities Act. There are certain conditions to be met and the employer may need to accommodate an employee. Federal Equal Employment Opportunity Commission (EEOC) has said employers can mandate vaccines, but there are already exemptions such as, religion and adverse reactions.- https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws?mkt_tok=eyJpIjoiWW1VMk4yUTBOakV4TmpRMylsInQiOiJEemxoTmhtUmNDaGI5VjVcL3dXTXA2VmF1TjZhZEJUYUNteGRkWUVYc2JGZUtUYjFBaHBaOG82c1orVUVwSnI4ejFINFN3ckt3QzZcwRjdUS1hzVnRwbVF4SXBMtW0wcWVXOWZ0ZU1IQ2Q3YVVFbytKeEExdjdvN0RlVHVWbXpKTkQifQ%3D%3D

One legal article on this subject stated *“For instance, because the administration of a COVID-19 vaccine likely would require an employee to provide certain pre-screening information – information that may be necessary to determine whether an employee can be vaccinated – the disclosure of that information can trigger the ADA’s provision prohibiting disability-related inquires, which can expose an employer to liability. Thus, if the employer administers the vaccine, it must show that such pre-screening questions are “job-related and consistent with business necessity” to comply with the ADA.”* (<https://www.natlawreview.com/article/eeoc-guidance-covid-19-vaccinations-what-now-employers>)

Contrary to the impetus behind this bill of preventing employers from mandating vaccines, we would oppose legislation that mandated employers to have employees vaccinated. These decisions are best left to employers and their employees as each situation, exposure risk, and health status is different. From the same National Law Review article, *“even if an employer decides to mandate COVID-19 vaccinations of its employees, the employer must be prepared to reasonably accommodate employees who either cannot, or will not, be vaccinated for medical or sincerely held religious reasons.”*

For these reasons, we would ask that you not support Senate Bill 213. There are federal rules and guidelines in place protecting employees today. Passing SB 213 which creates new fines on employers invites litigation on Kansas businesses. I am happy to answer questions at the appropriate time.