

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: S10/4/21
A Bill

SENATE BILL 739

By: Senators K. Hammer, B. Ballinger, *Rice, Flippo*
By: Representatives Bryant, Haak, *M. Gray, Vaught, Crawford, Bentley*

For An Act To Be Entitled

AN ACT CONCERNING EMPLOYMENT ISSUES RELATED TO
CORONAVIRUS 2019 (COVID-19); TO PROVIDE EMPLOYEE
EXEMPTIONS FROM FEDERAL MANDATES AND EMPLOYER
MANDATES RELATED TO CORONAVIRUS 2019 (COVID-19); TO
DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE EMPLOYEE EXEMPTIONS FROM
FEDERAL MANDATES AND EMPLOYER MANDATES
RELATED TO CORONAVIRUS 2019 (COVID-19);
AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings and intent.

(a) The General Assembly finds that:

(1) The United States Government is mandating that employers take actions related to coronavirus 2019 (COVID-19) vaccinations, including forcing an employee to be vaccinated against the employee's will;

(2) Vaccination mandates are an overreach of authority;

(3) Many employers and employees in Arkansas will soon be subject to this vaccination mandate; and

(4) Arkansas employees need to be protected from this type of overreach.

(b) The General Assembly intends for this act to:

(1) Protect employees in Arkansas from impending terminations



due to vaccination mandates; and

(2) Create the ability for funding to be available to assist employees in Arkansas with the costs associated with testing related to the vaccination mandate through the methods provided in this act, including without limitation coronavirus 2019 (COVID-19) relief funds distributed from the American Rescue Plan Act of 2021, Pub. L. No. 117-2.

SECTION 2. Arkansas Code Title 11, Chapter 5, Subchapter 1, is amended to add an additional section to read as follows:

11-5-118. Exemption for employees from mandates related to coronavirus 2019 (COVID-19).

(a) An employer that requires or is mandated to require vaccination or immunization for coronavirus 2019 (COVID-19) or its variants for its employees shall provide a specific exemption process.

(b) The specific exemption process shall include options that allow the employee to produce either:

(1) A negative antigen detection test result or molecular diagnostic test result no more than one (1) time per week showing that the employee is not positive for coronavirus 2019 (COVID-19); or

(2) Proof of immunity for the virus that causes coronavirus 2019 (COVID-19) or its variants, including without limitation the presence of antibodies, T cell response, or proof of a positive coronavirus 2019 (COVID-19) or its variants test, on a basis of two (2) times per year, not to exceed one (1) time every six (6) months, from a licensed healthcare provider.

(c)(1) If multiple proven test processes are available to an employee under subsection (b) of this section, the employee may choose which test to take.

(2) The employee may provide test results obtained outside of the employer or a licensed healthcare provider if the test meets the guidelines contained within the Policy for Coronavirus Disease-2019 Tests During the Public Health Emergency (Revised) issued by the United States Department of Health and Human Services Food and Drug Administration Center for Devices and Radiological Health.

(3)(A) The cost of the testing shall be covered through any state or federal funding made available, including without limitation coronavirus 2019 (COVID-19) relief funds distributed from the American Rescue

Plan Act of 2021, Pub. L. No. 117-2, if the employee's health benefit plan does not provide coverage for the testing.

(B) In the event that the cost of testing under subdivision (c)(3)(A) of this section is not available, the cost of the testing shall be covered by the employee.

(d) An employer shall provide the specific exemption process required under this section in addition to any other exemptions offered by the employer.

(e) If an employee complies with the requirements of the specific exemption process related to coronavirus 2019 (COVID-19) as required by this section, the employee shall not be terminated for mandates related to coronavirus 2019 (COVID-19).

(f) Nothing in this section should be interpreted to modify any other agreements between the employer and employee or to amend or affect the employment-at-will doctrine, whether written or otherwise.

(g) The Department of Finance and Administration shall establish rules regarding the method of distribution of coronavirus 2019 (COVID-19) relief funds from the American Rescue Plan Act of 2021, Pub. L. No. 117-2, to employees and employers to cover the cost of testing, to include without limitation the:

(1) Timely distribution of funds to recipients within thirty (30) days;

(2) Establishment of an option for distribution to an employer that chooses to receive funds for disbursement to employees; and

(3) Verification and method of authentication of receipts that shall meet legislative auditing requirements, including without limitation the development of forms.

(h) The department shall report to the Legislative Council on a monthly basis on the disbursement of funds under this section.

(i) If an employee is terminated due to the employer's violation of this section, the employee may be eligible for unemployment benefits in addition to any other remedy available to the employee.

(j) This section shall expire on July 31, 2023, unless extended by the General Assembly.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the

General Assembly of the State of Arkansas that mandates forcing actions related to coronavirus 2019 (COVID-19) vaccinations are an overreach of authority; that vaccination mandates will be imposed on many employers and employees in Arkansas; that employees are facing impending terminations related to exercising their rights to refuse a vaccination; and that this act is immediately necessary to protect the people of Arkansas from this type of overreach. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/K. Hammer