

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: S10/4/21

A Bill

SENATE BILL 739

5 By: Senators K. Hammer, B. Ballinger, *Rice, Flippo*
6 By: Representatives Bryant, Haak, *M. Gray, Vaught, Crawford, Bentley*
7

For An Act To Be Entitled

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

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17 TO PROVIDE EMPLOYEE EXEMPTIONS FROM
18 FEDERAL MANDATES AND EMPLOYER MANDATES
19 RELATED TO CORONAVIRUS 2019 (COVID-19);
20 AND TO DECLARE AN EMERGENCY.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

26 (a) The General Assembly finds that:

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

30 (2) Vaccination mandates are an overreach of authority;

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

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

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

36 (1) Protect employees in Arkansas from impending terminations



1 due to vaccination mandates; and

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

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

10 11-5-118. Exemption for employees from mandates related to coronavirus
11 2019 (COVID-19).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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18 */s/K. Hammer*
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21 **APPROVED: BECAME LAW ON 10/13/21 WITHOUT THE GOVERNOR'S SIGNATURE.**
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