

{As Amended by House on Final Action}

Special Session of 2021

HOUSE BILL No. 2001

By Representatives Barker, Landwehr, Owens and Tarwater

11-22

1 AN ACT concerning employer COVID-19 vaccine requirements; requiring
2 exemptions; providing for waiver requests; authorizing a complaint and
3 investigation process with the secretary of labor for violations related to
4 exemptions, enforcement actions by the attorney general and civil
5 penalties to be imposed by a court for such violations.
6

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

8 Section 1. (a) Notwithstanding any provision of law to the contrary, if
9 an employer implements a COVID-19 vaccine requirement, the employer
10 shall exempt an employee from such requirement, without punitive action,
11 if the employee submits a written waiver request to the employer stating
12 that complying with such requirement would:

13 (1) Endanger the life or health of the employee or an individual who
14 resides with the employee, as evidenced by an accompanying written
15 statement signed by a physician or another person who performs acts
16 pursuant to practice agreements, protocols or at the order, direction or
17 delegation of a physician; or

18 (2) violate sincerely held religious beliefs of the employee, as
19 evidenced by an accompanying written statement signed by the employee.

20 (b) An employer shall grant an exemption requested in accordance
21 with this section based on sincerely held religious beliefs without inquiring
22 into the sincerity of the request.

23 (c) (1) An employee aggrieved by a violation of this section may file
24 a complaint with the secretary of labor alleging that an employer failed to
25 offer an exemption, improperly denied an exemption request, took punitive
26 action against the employee or committed any other violation of this
27 section.

28 (2) (A) The secretary of labor shall promptly commence an
29 investigation of each complaint filed pursuant to this subsection. The
30 secretary shall complete such investigation and issue a final order within
31 ~~400~~ {25} days after the filing of the complaint. At a minimum, the
32 investigation shall determine whether:

- 33 (i) The employer imposed a COVID-19 vaccine requirement;
34 (ii) the employee submitted a written waiver request in accordance
35 with this section; and
36 (iii) the employer committed any violation of this section.

1 (B) Upon completing the investigation, the secretary of labor shall
2 issue an order containing findings and conclusions as to whether the
3 employer violated this section and provide such order to the employee and
4 the employer. Such order is a final order for purposes of judicial review
5 and shall state the right of the employee or the employer to appeal as
6 provided in the Kansas judicial review act.

7 (C) If the secretary of labor issues a final order finding that an
8 employer violated this section, the secretary shall issue an order containing
9 such findings and provide such order to the employee, the employer and
10 the attorney general.

11 (3) (A) Except as provided in paragraph (3)(B), upon receipt of an
12 order from the secretary of labor pursuant to paragraph (2), the attorney
13 general shall secure enforcement of such order by filing an action in an
14 appropriate district court to impose civil penalties.

15 (B) The attorney general shall not file a civil action against an
16 employer if the employer reinstates the terminated employee with back
17 pay to the date that the complaint was received by the secretary of labor
18 under this subsection.

19 (C) In an action filed pursuant to this subsection, the court may
20 impose a civil penalty not to exceed:

21 (i) \$10,000 per violation for an employer with fewer than 100
22 employees; or

23 (ii) \$50,000 per violation for an employer with 100 or more
24 employees.

25 (D) In determining the amount of the civil penalty for a violation, the
26 court may consider the following factors:

27 (i) Whether the employer knowingly and willfully violated this
28 section;

29 (ii) whether the employer has shown good faith in attempting to
30 comply with this section;

31 (iii) whether the employer has taken action to correct the violation;

32 (iv) whether the employer has previously been assessed a civil
33 penalty for violating this section; and

34 (v) any other mitigating or aggravating factor that fairness or due
35 process requires.

36 (4) All civil penalties assessed and collected under this subsection
37 shall be remitted to the state treasurer in accordance with the provisions of
38 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
39 remittance, the state treasurer shall deposit the entire amount in the state
40 treasury to the credit of the state general fund.

41 (d) As used in this section:

42 (1) "COVID-19 vaccine" means an immunization, vaccination or
43 injection against disease caused by the novel coronavirus identified as

- 1 SARS-CoV-2 or disease caused by a variant of the virus;
- 2 (2) "COVID-19 vaccine requirement" means that an employer:
- 3 (A) Requires an employee to receive a COVID-19 vaccine;
- 4 (B) requires an employee to provide documentation certifying receipt
- 5 of a COVID-19 vaccine; or
- 6 (C) enforces a requirement described in subparagraph (A) or (B) that
- 7 is imposed by the federal government or any other entity;
- 8 (3) "employee" means:
- 9 (A) An individual who is employed in this state for wages by an
- 10 employer;
- 11 (B) an applicant for employment by an employer; or
- 12 (C) a noncompensated intern or apprentice for an employer;
- 13 (4) "employer" means any person in this state who employs one or
- 14 more persons and includes the state of Kansas and all political
- 15 subdivisions of the state;
- 16 (5) "person" means an individual, partnership, association,
- 17 organization, corporation, legal representative, trustee, trustee in
- 18 bankruptcy or receiver;
- 19 (6) "physician" means an individual licensed by the state board of
- 20 healing arts to practice medicine and surgery;
- 21 (7) "punitive action" means any of the following actions related to the
- 22 employee's exemption request: Dismissal, demotion, transfer,
- 23 reassignment, suspension, reprimand, warning of possible dismissal,
- 24 withholding of work or assessing any monetary penalty or unreasonable
- 25 charge; and
- 26 (8) "religious beliefs" includes, but is not limited to, theistic and non-
- 27 theistic moral and ethical beliefs as to what is right and wrong that are
- 28 sincerely held with the strength of traditional religious views.
- 29 (e) This section shall expire on June 1, 2023.
- 30 Sec. 2. This act shall take effect and be in force from and after its
- 31 publication in the Kansas register.