

# HOUSE BILL No. 1127

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-5-4.6.

**Synopsis:** Exemption from COVID-19 immunization requirements. Provides that an employer may not require an employee to submit to testing for the presence of COVID-19 unless the employee had a known high risk exposure to COVID-19 or has active symptoms of COVID-19. Removes a provision that allows an employer to require an employee who receives an exemption from COVID-19 immunization requirements to submit to testing under certain conditions. Provides that an employer may not subject an employee who claims an exemption based on religious reasons to religious testing or questioning unless the employer has documented evidence of an insincere belief. Removes a provision that allows an employer to request a new laboratory test result from an employee who claims an exemption based on immunity from COVID-19 not more than once every three months. Allows an employee or prospective employee to bring a civil action against an employer to enforce the exemption requirements.

**Effective:** Upon passage.

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January 10, 2023, read first time and referred to Committee on Employment, Labor and Pensions.

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First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

## HOUSE BILL No. 1127

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 22-5-4.6-0.5, AS ADDED BY P.L.1-2022,  
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 0.5. (a) This chapter does not apply to the  
4 following:  
5 (1) An employee when the employee is working in another state,  
6 if the employer provides accommodations for a COVID-19  
7 immunization requirement for the employee in accordance with:  
8 (A) Title VII of the federal Civil Rights Act of 1964, as  
9 amended (42 U.S.C. 2000e et seq.); and  
10 (B) the Americans with Disabilities Act (42 U.S.C. 12101 et  
11 seq.).  
12 (2) An employer who has entered into a federally awarded or  
13 amended contract, subcontract, or postsecondary grant as a  
14 condition to receive federal funds, if:  
15 (A) a COVID-19 immunization requirement is imposed on  
16 parties that contract with the federal government under federal  
17 law, federal regulation, or federal executive order;



- 1 (B) compliance with this chapter would result in a breach of  
 2 contract or a loss of federal funding;  
 3 (C) the employer provides accommodations for the COVID-19  
 4 immunization requirement for an employee in accordance  
 5 with:  
 6 (i) Title VII of the federal Civil Rights Act of 1964, as  
 7 amended (42 U.S.C. 2000e et seq.); and  
 8 (ii) the Americans with Disabilities Act (42 U.S.C. 12101 et  
 9 seq.); and  
 10 (D) an employer files with the secretary of state business  
 11 services division evidence that:  
 12 (i) a COVID-19 immunization requirement is imposed on  
 13 parties that contract with the federal government under  
 14 federal law, federal regulation, or federal executive order;  
 15 and  
 16 (ii) the employer has entered into a federally awarded or  
 17 amended contract, subcontract, or postsecondary grant as a  
 18 condition to receive federal funds.
- 19 (3) A health care facility that is subject to a federal immunization  
 20 requirement against COVID-19 for the health care facility's  
 21 employees **if the employer provides accommodations for the**  
 22 **COVID-19 immunization requirement for an employee in**  
 23 **accordance with:**  
 24 **(A) Title VII of the federal Civil Rights Act of 1964, as**  
 25 **amended (42 U.S.C. 2000e et seq.); and**  
 26 **(B) the Americans with Disabilities Act (42 U.S.C. 12101 et**  
 27 **seq.).**
- 28 (4) An employer or employee when:  
 29 (A) the employer operates:  
 30 (i) a professional sports organization; or  
 31 (ii) an entertainment organization or venue engaged in  
 32 producing or presenting musical, theatrical, or other types of  
 33 cultural entertainment;  
 34 (B) employees of the employer work in close proximity to the  
 35 live sports or entertainment; and  
 36 (C) the employer provides accommodations for a COVID-19  
 37 immunization requirement for employees in accordance with:  
 38 (i) Title VII of the federal Civil Rights Act of 1964 (42  
 39 U.S.C. 2000e et seq.); and  
 40 (ii) the Americans with Disabilities Act (42 U.S.C. 12101 et  
 41 seq.).  
 42 (b) Subsection (a)(2)(D) does not require an employer to disclose



1 confidential or proprietary information to the secretary of state. An  
 2 employer may redact any confidential or proprietary information prior  
 3 to submitting the evidence described in subsection (a)(2)(D).

4 (c) The information collected or maintained by the secretary of state  
 5 under subsection (a)(2)(D) shall be:

- 6 (1) public information; and
- 7 (2) available electronically for inspection by the public.

8 SECTION 2. IC 22-5-4.6-5, AS AMENDED BY P.L.174-2022,  
 9 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 UPON PASSAGE]: Sec. 5. (a) An employer may not impose a  
 11 requirement that employees receive an immunization against  
 12 COVID-19 unless the employer provides individual exemptions that  
 13 allow an employee to opt out of the requirement on the basis of any of  
 14 the following:

- 15 (1) Medical reasons.
- 16 (2) Religious reasons.
- 17 (3) An employee has immunity from COVID-19 acquired from a  
 18 prior infection with COVID-19.

19 **(b) An employer may not require an employee to submit to**  
 20 **testing for the presence of COVID-19 unless the employee:**

- 21 **(1) had a known high risk exposure to COVID-19; or**
- 22 **(2) has active symptoms of COVID-19.**

23 ~~(b) Subject to subsection (e), an employer may require an employee~~  
 24 ~~to submit to testing for the presence of COVID-19 not more than twice~~  
 25 ~~a week, if the employee receives an exemption based on:~~

- 26 ~~(1) medical reasons under subsection (a)(1);~~
- 27 ~~(2) religious reasons under subsection (a)(2); or~~
- 28 ~~(3) immunity from COVID-19 acquired from a prior infection~~  
 29 ~~with COVID-19 under subsection (a)(3).~~

30 ~~(c) An employer may not require a test for the presence of~~  
 31 ~~COVID-19 unless the test:~~

- 32 ~~(1) has been approved, cleared, or authorized by the federal Food~~  
 33 ~~and Drug Administration;~~
- 34 ~~(2) is the least invasive testing option available; and~~
- 35 ~~(3) does not create an undue burden on the employee to receive~~  
 36 ~~the test.~~

37 SECTION 3. IC 22-5-4.6-6, AS AMENDED BY P.L.174-2022,  
 38 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39 UPON PASSAGE]: Sec. 6. (a) Unless an employer waives the  
 40 documentation requirements under this subsection, to claim an  
 41 exemption based on medical reasons, an employee must present to the  
 42 employer an exemption statement in writing, dated and signed by:



- 1 (1) a licensed physician;
- 2 (2) a licensed physician's assistant; or
- 3 (3) an advanced practice registered nurse;

4 who has examined the employee. The statement must provide that, in  
 5 the professional opinion of the licensed physician, licensed physician's  
 6 assistant, or advanced practice registered nurse, the immunization  
 7 against COVID-19 is medically contraindicated (as defined in  
 8 IC 16-18-2-223.7) for the employee.

9 (b) To claim an exemption based on religious reasons, an employee  
 10 must present to the employer an exemption statement in writing  
 11 indicating that the employee declines the immunization against  
 12 COVID-19 because of a sincerely held religious belief. **An employer**  
 13 **may not subject an employee to religious testing or questioning**  
 14 **unless the employer has documented evidence of an insincere**  
 15 **belief.**

16 (c) Unless an employer waives the documentation requirements  
 17 under this subsection, to claim an exemption based on immunity from  
 18 COVID-19 acquired from a prior infection with COVID-19, an  
 19 employee must present to the employer the result of a laboratory test  
 20 performed on the employee that has been approved ~~cleared~~, or  
 21 ~~authorized~~ by the federal Food and Drug Administration, including any  
 22 of the following:

- 23 (1) A polymerase chain reaction test (PCR) test.
- 24 (2) An antigen test.
- 25 (3) An antibody or serology test.

26 ~~An employer may request that an employee submit a new laboratory~~  
 27 ~~test result as described in this subsection not more than once every~~  
 28 ~~three (3) months.~~

29 SECTION 4. IC 22-5-4.6-10 IS ADDED TO THE INDIANA CODE  
 30 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
 31 UPON PASSAGE]: **Sec. 10. (a) An employee or prospective**  
 32 **employee may bring a civil action against an employer to enforce**  
 33 **this chapter.**

34 **(b) If an employer violates this chapter, a court may do the**  
 35 **following:**

- 36 (1) **Award:**
  - 37 (A) **actual damages; and**
  - 38 (B) **court costs and reasonable attorney's fees;**
- 39 **to the prevailing employee or prospective employee.**
- 40 (2) **Enjoin further violation of this chapter.**

41 SECTION 5. IC 22-5-4.6-11 IS ADDED TO THE INDIANA CODE  
 42 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE



1 UPON PASSAGE]: **Sec. 11. This chapter does not limit an**  
2 **employee's or prospective employee's rights or remedies under any**  
3 **other state or federal law.**  
4 SECTION 6. **An emergency is declared for this act.**

