

HOUSE BILL No. 1408

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-1-8; IC 22-5-9.

Synopsis: Prohibition on COVID-19 vaccine mandates. Prohibits a governmental entity or an employer from implementing, requiring, or otherwise enforcing a COVID-19 immunization mandate. Authorizes the department of labor to: (1) investigate any complaints of a violation; and (2) issue a fine for a violation. Establishes an unlawful employment practice for an employer to require a COVID-19 immunization as a condition of employment or to fail to hire, discharge, penalize, or otherwise discriminate against an employee or prospective employee because of an employee's COVID-19 immunization status. Provides for a civil cause of action if an individual suffers an injury as a result of a violation or threatened violation.

Effective: Upon passage.

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January 13, 2022, read first time and referred to Committee on Employment, Labor and Pensions.



Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1408

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 22-1-8 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 8. Prohibition on COVID-19 Immunization Mandates**

5 **Sec. 1. As used in this chapter, "COVID-19" means:**

6 (1) severe acute respiratory syndrome coronavirus 2
7 (SARS-CoV-2); or

8 (2) the disease caused by severe acute respiratory syndrome
9 coronavirus 2 (SARS-CoV-2).

10 **Sec. 2. (a) As used in this chapter, "COVID-19 immunization**
11 **mandate" means a policy that:**

12 (1) requires an individual to receive a COVID-19
13 immunization; or

14 (2) imposes an adverse consequence against an individual who
15 refuses to obtain a COVID-19 immunization.

16 **(b) Adverse consequences under subsection (a)(2) against an**
17 **individual who refuses to obtain a COVID-19 immunization may**



- 1 include the following:
- 2 (1) An adverse employment action as described in IC 22-5-9-5.
- 3 (2) A fine.
- 4 (3) Denial of, or adverse access to, any of the following:
- 5 (A) Services or goods.
- 6 (B) Businesses.
- 7 (C) Transportation.
- 8 (D) Events.
- 9 (E) Housing.
- 10 (F) Lodging.
- 11 (G) Buildings.
- 12 (H) Public or governmental property.
- 13 Sec. 3. As used in this chapter, "employee" means an individual
- 14 who is employed by an employer on a full-time or part-time basis.
- 15 The term includes the following:
- 16 (1) An independent contractor.
- 17 (2) A volunteer or other individual who does not receive
- 18 compensation for working for the employer.
- 19 (3) A student.
- 20 Sec. 4. As used in this chapter, "employer" means a sole
- 21 proprietor, corporation, partnership, limited liability company, or
- 22 other entity with one (1) or more employees. The term does not
- 23 include the United States and its agencies and instrumentalities.
- 24 Sec. 5. As used in this chapter, "governmental entity" includes
- 25 the following:
- 26 (1) A state agency (as defined in IC 1-1-15-3).
- 27 (2) A political subdivision (as defined in IC 36-1-2-13).
- 28 (3) A public school corporation (as defined in IC 4-4-38.5-6.2).
- 29 (4) A state institution (as defined in IC 12-7-2-184).
- 30 (5) An instrumentality of state government or a political
- 31 subdivision (as defined in IC 36-1-2-13) or other entity
- 32 created by law.
- 33 (6) An individual who holds an elected office (as defined in
- 34 IC 3-5-2-17).
- 35 (7) A public official (as defined in IC 2-7-1-14).
- 36 (8) An employee of a state agency or a political subdivision.
- 37 Sec. 6. As used in this chapter, "immunization" means a
- 38 treatment of an individual:
- 39 (1) with an immunization to produce immunity against a
- 40 disease; or
- 41 (2) that is advertised, promoted, marketed, including any
- 42 representations on or within a product or the product's



1 packaging, or otherwise communicated to the public as an
2 immunization.

3 **Sec. 7. (a)** A governmental entity may not implement, require,
4 or otherwise enforce a COVID-19 immunization mandate for a
5 governmental entity's employees or any other individuals entering
6 the governmental entity's premises.

7 **(b)** An employer may not implement, require, or otherwise
8 enforce a COVID-19 immunization mandate for the employer's
9 employees, customers, or any other individual entering the
10 employer's premises.

11 **Sec. 8. (a)** An individual who believes a governmental entity or
12 employer has violated this chapter may file a complaint with the
13 department of labor in the manner prescribed by the department
14 of labor.

15 **(b)** The department of labor shall investigate all complaints filed
16 under subsection (a). The department of labor may also investigate
17 any governmental entity or employer that the department of labor
18 has reason to believe has violated this chapter.

19 **(c)** If the department of labor determines that a violation of this
20 chapter has occurred, the department of labor may issue a fine
21 against the governmental entity or employer in an amount not to
22 exceed one thousand dollars (\$1,000) per violation.

23 SECTION 2. IC 22-5-9 IS ADDED TO THE INDIANA CODE AS
24 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
25 PASSAGE]:

26 **Chapter 9. COVID-19 Immunizations and Unlawful**
27 **Employment Practices**

28 **Sec. 1.** As used in this chapter, "COVID-19" means:

- 29 (1) severe acute respiratory syndrome coronavirus 2
30 (SARS-CoV-2); or
31 (2) the disease caused by severe acute respiratory syndrome
32 coronavirus 2 (SARS-CoV-2).

33 **Sec. 2.** As used in this chapter, "employee" means an individual
34 who is employed by an employer on a full-time or part-time basis.
35 The term includes the following:

- 36 (1) An independent contractor.
37 (2) A volunteer or other individual who does not receive
38 compensation for working for the employer.
39 (3) A student.

40 **Sec. 3.** As used in this chapter, "employer" means a sole
41 proprietor, corporation, partnership, limited liability company, or
42 other entity with one (1) or more employees. The term includes the



1 following:

2 (1) A governmental entity (as defined in IC 22-1-8-5).

3 (2) A health care facility (as defined in IC 16-18-2-161(a)).

4 Sec. 4. As used in this chapter, "immunization" means a
5 treatment of an individual:

6 (1) with an immunization to produce immunity against a
7 disease; or

8 (2) that is advertised, promoted, marketed, including any
9 representations on or within a product or the product's
10 packaging, or otherwise communicated to the public as an
11 immunization.

12 Sec. 5. It is an unlawful employment practice for an employer
13 to:

14 (1) require, as a condition of employment, an employee or
15 prospective employee to receive an immunization against
16 COVID-19; or

17 (2) fail or refuse to hire, discharge, penalize, or otherwise
18 discriminate against an employee or prospective employee
19 concerning the employee's or prospective employee's
20 compensation, benefits, or the terms, conditions, or privileges
21 of employment because of:

22 (A) the COVID-19 immunization history of the employee
23 or prospective employee;

24 (B) the refusal of the employee or prospective employee to
25 receive an immunization against COVID-19; or

26 (C) the refusal of the employee or prospective employee to
27 provide the employer with a COVID-19 immunization
28 record.

29 Sec. 6. (a) An individual who suffers an injury:

30 (1) as the result of any act or practice that violates this
31 chapter; or

32 (2) from a threatened violation of this chapter;

33 may bring a civil action.

34 (b) A court may order an award of any or all of the following to
35 an individual who prevails in an action under subsection (a):

36 (1) Actual and consequential damages resulting from the
37 violation or threatened violation.

38 (2) Reasonable attorney's fees, litigation expenses, and costs.

39 (3) Declaratory or equitable relief, including injunctive relief.

40 (4) Other relief the court considers proper.

41 (5) Liquidated damages of not more than ten thousand dollars
42 (\$10,000).



1 **(c) The remedies and penalties set forth in subsection (b) are:**
2 **(1) cumulative; and**
3 **(2) in addition to other remedies and penalties imposed for a**
4 **violation of this chapter.**
5 **SECTION 3. An emergency is declared for this act.**

