

SECOND REGULAR SESSION

HOUSE BILL NO. 2055

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LEWIS (6).

4420H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapters 288 and 292, RSMo, by adding thereto two new sections relating to COVID-19 vaccine requirements.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapters 288 and 292, RSMo, are amended by adding thereto two new sections, to be known as sections 288.049 and 292.642, to read as follows:

288.049. 1. For purposes of this section, the term "COVID-19 vaccine requirement" shall have the same meaning given to the term in section 292.642.

2. An individual aggrieved by a violation of section 292.642 who has filed a claim for benefits under this chapter and who is otherwise eligible for benefits shall not become ineligible for benefits or be disqualified from receiving benefits on the grounds that the claimant:

(1) Was discharged or suspended for misconduct if the employer's conduct in discharging or suspending the claimant was a violation of section 292.642; or

(2) Has declined to accept work that requires compliance with a COVID-19 vaccine requirement if the claimant has requested an exemption from the prospective employer in accordance with section 292.642 and such request was denied. In such case, such work for such claimant shall be deemed not to constitute suitable work for purposes of this chapter.

3. (1) Notwithstanding any other provision of law, a claimant, upon request, shall be retroactively paid benefits for any week that the claimant would otherwise have been eligible for such benefits if such claimant was disqualified from receiving such benefits during the period of September 9, 2021, through the effective date of this

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 section on the grounds that the claimant was discharged or suspended for misconduct as
19 the result of the claimant's refusal to comply with a COVID-19 vaccine requirement
20 after the claimant requested an exemption or accommodation from such requirement
21 provided by state or federal law and such request was denied.

22 (2) The division shall independently review any claims denied during the period
23 of September 9, 2021, through the effective date of this section to determine if the
24 claimant was disqualified from receiving benefits on the grounds that the claimant was
25 discharged or suspended for misconduct as the result of the claimant's refusal to comply
26 with a COVID-19 vaccine requirement after the claimant requested an exemption or
27 accommodation from such requirement provided by state or federal law and such
28 request was denied. If the claimant has not requested retroactive payment of such
29 benefits as provided by subdivision (1) of this subsection, the division shall retroactively
30 pay benefits to such claimant for any week that the claimant would otherwise have been
31 eligible for such benefits.

32 (3) The division shall develop and implement procedures to enable claimants to
33 retroactively substantiate and file claims under this subsection.

34 4. Benefits awarded to a claimant who receives back pay under subsection 4 of
35 section 292.642 shall be subject to the provisions of section 288.381.

36 5. (1) If all or any portion of the provisions of section 292.642 are held to be
37 unconstitutional by any court of competent jurisdiction, upon a final order, the attorney
38 general shall certify to the secretary of state that such holding has occurred. Upon
39 receipt of such certification, the secretary of state shall cause a notice of such
40 certification to be published in the Missouri register.

41 (2) On and after the effective date of this section and upon the publication of the
42 notice by the secretary of state in the Missouri register as provided by subdivision (1) of
43 this subsection, the provisions of this section shall terminate.

292.642. 1. For purposes of this section, the following terms mean:

2 (1) "COVID-19 vaccine", an immunization, vaccination, or injection against
3 disease caused by the novel coronavirus identified as SARS-CoV-2 or disease caused by
4 a variant of the virus;

5 (2) "COVID-19 vaccine requirement", a requirement imposed by an employer
6 that:

7 (a) Requires an employee to receive a COVID-19 vaccine;

8 (b) Requires an employee to provide documentation certifying receipt of a
9 COVID-19 vaccine; or

10 (c) Enforces a requirement described in paragraph (a) or (b) of this subdivision
11 that is imposed by the federal government or any other entity;

- 12 **(3) "Department", the department of labor and industrial relations;**
13 **(4) "Employee":**
14 **(a) An individual who is employed in this state for wages by an employer;**
15 **(b) An applicant for employment by an employer; or**
16 **(c) A noncompensated intern or apprentice for an employer;**
17 **(5) "Employer", any person in this state who employs one or more persons and**
18 **includes the state of Missouri and all political subdivisions of the state;**
19 **(6) "Person", an individual, partnership, association, organization, corporation,**
20 **legal representative, trustee, trustee in bankruptcy, or receiver;**
21 **(7) "Physician", an individual licensed under chapter 334 to practice medicine**
22 **and surgery;**
23 **(8) "Punitive action", any of the following actions related to the employee's**
24 **exemption request:**
25 **(a) Dismissal;**
26 **(b) Demotion;**
27 **(c) Transfer;**
28 **(d) Reassignment;**
29 **(e) Suspension;**
30 **(f) Reprimand;**
31 **(g) Warning of possible dismissal;**
32 **(h) Withholding of work; or**
33 **(i) Assessment of any monetary penalty or unreasonable charge;**
34 **(9) "Religious beliefs", beliefs that include, but are not limited to, theistic and**
35 **nontheistic moral and ethical beliefs as to what is right and wrong that are sincerely**
36 **held with the strength of traditional religious views.**
37 **2. Notwithstanding any provision of law to the contrary, if an employer**
38 **implements a COVID-19 vaccine requirement, the employer shall exempt an employee**
39 **from such requirement, without punitive action, if the employee submits a written**
40 **waiver request to the employer stating that complying with such requirement would:**
41 **(1) Endanger the life or health of the employee or an individual who resides with**
42 **the employee, as evidenced by an accompanying written statement signed by a physician**
43 **or another person who performs acts in accordance with practice agreements or**
44 **protocols or at the order, direction, or delegation of a physician; or**
45 **(2) Violate sincerely held religious beliefs of the employee, as evidenced by an**
46 **accompanying written statement signed by the employee.**

47 **3. An employer shall grant an exemption requested in accordance with this**
48 **section based on sincerely held religious beliefs without inquiring into the sincerity of**
49 **the request.**

50 **4. (1) An employee aggrieved by a violation of this section may file a complaint**
51 **with the department alleging that an employer failed to offer an exemption, improperly**
52 **denied an exemption request, took punitive action against the employee, or committed**
53 **any other violation of this section.**

54 **(2) The department shall promptly commence an investigation of each complaint**
55 **filed under this subsection. The department shall complete such investigation and issue**
56 **a final order within sixty calendar days after the filing of the complaint. At a minimum,**
57 **the investigation shall determine whether:**

58 **(a) The employer imposed a COVID-19 vaccine requirement;**

59 **(b) The employee submitted a written waiver request in accordance with this**
60 **section; and**

61 **(c) The employer committed any violation of this section.**

62 **(3) Upon completing the investigation, the department shall issue an order**
63 **containing findings and conclusions as to whether the employer violated this section and**
64 **provide such order to the employee and the employer. Such order is a final order for**
65 **purposes of judicial review and shall state the right of the employee or the employer to**
66 **appeal to circuit court.**

67 **(4) If the department issues a final order finding that an employer violated this**
68 **section, the department shall provide such order to the employee, the employer, and the**
69 **attorney general.**

70 **(5) (a) Except as provided in paragraph (b) of this subdivision, upon receipt of**
71 **an order from the department under subdivision (4) of this subsection, the attorney**
72 **general shall secure enforcement of such order by filing an action in an appropriate**
73 **circuit court to obtain a civil judgment.**

74 **(b) The attorney general shall not file a civil action against an employer if the**
75 **employer reinstates the terminated employee with back pay to the date that the**
76 **complaint was received by the department under this subsection.**

77 **(c) In an action filed under this subsection, the court may impose a civil**
78 **judgment not to exceed:**

79 **a. Ten thousand dollars per violation for an employer with fewer than one**
80 **hundred employees; or**

81 **b. Fifty thousand dollars per violation for an employer with one hundred or**
82 **more employees.**

83 **(d) In determining the amount of the civil judgment for a violation, the court**
84 **may consider the following factors:**

85 **a. Whether the employer knowingly and willfully violated this section;**

86 **b. Whether the employer has shown good faith in attempting to comply with this**
87 **section;**

88 **c. Whether the employer has taken action to correct the violation;**

89 **d. Whether the employer has been previously subject to a civil judgment for**
90 **violating this section; and**

91 **e. Any other mitigating or aggravating factor that fairness or due process**
92 **requires.**

93 **(6) All civil judgments assessed and collected under this subsection shall be**
94 **deposited to the credit of the unemployment compensation fund established under**
95 **section 288.290.**

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