

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 411

Representatives Click, Grendell

Cosponsors: Representatives Stoltzfus, Hall, Miller, K., Gross, Dean, Ferguson, Brinkman, Merrin, Creech, Bird, John, Wiggam, McClain, Fowler Arthur, Jordan

A BILL

To amend section 4117.10 and to enact sections 1
3792.03 and 4113.73 of the Revised Code to 2
prohibit mandatory disclosures related to an 3
individual's COVID-19 vaccination status, to 4
name the act the Individual Privacy and Anti- 5
Discrimination Act, and to declare an emergency. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4117.10 be amended and sections 7
3792.03 and 4113.73 of the Revised Code be enacted to read as 8
follows: 9

Sec. 3792.03. (A) As used in this section: 10

(1) "Business" means a corporation, association, 11
partnership, limited liability company, sole proprietorship, 12
joint venture, or other business entity composed of one or more 13
individuals, whether or not the entity is operated for profit. 14

(2) "Political subdivision" means a county, township, 15
municipal corporation, school district, or other body corporate 16
and politic responsible for governmental activities in a 17

geographic area smaller than that of the state. "Political 18
subdivision" also includes a board of health of a city or 19
general health district. 20

(3) "Proof of COVID-19 vaccination" means a paper document 21
or a digital application available on a smartphone, tablet, or 22
other device, that demonstrates, including through the use of a 23
scannable code, that an individual has been vaccinated. 24

(4) "Public official" means any officer, employee, or duly 25
authorized agent or representative of a state agency or 26
political subdivision. 27

(5) "State agency" means any organized agency, board, 28
body, commission, department, institution, office, or other 29
entity established by the laws of the state for the exercise of 30
any function of state government. "State agency" does not 31
include a court. 32

(B) (1) No individual shall be required to disclose the 33
individual's COVID-19 vaccination status or show proof of COVID- 34
19 vaccination for any reason, including the following: 35

(a) To enter a building, facility, or place controlled, 36
operated, or owned by any business, state agency, political 37
subdivision, or public official; 38

(b) To receive a service provided by any business, state 39
agency, political subdivision, or public official. 40

(2) No individual shall be required to provide a reason 41
for declining to do either of the following: 42

(a) Disclose the individual's COVID-19 vaccination status; 43

(b) Show proof of COVID-19 vaccination. 44

(C) (1) Information regarding an individual's COVID-19 45
vaccination status is private and confidential. 46

(2) Except as required by federal law, no business, state 47
agency, political subdivision, public official, or individual 48
that acquires information regarding an individual's COVID-19 49
vaccination status shall disclose or release the information to 50
another business, state agency, political subdivision, public 51
official, or individual without the individual's written 52
consent. 53

(D) Notwithstanding section 4112.02 of the Revised Code, a 54
business, state agency, political subdivision, public official, 55
or individual shall not discriminate against, deny service or 56
entry or access to, segregate, or otherwise penalize an 57
individual for failing to disclose the individual's COVID-19 58
vaccination status or show proof of COVID-19 vaccination. 59

(E) In the event of an alleged violation of this section, 60
an individual may seek injunctive relief or bring a civil action 61
for damages in any court of competent jurisdiction. 62

Sec. 4113.73. (A) As used in this section: 63

(1) "Employer" means any person who has one or more 64
employees and includes an agent of an employer, the state or any 65
agency or instrumentality of the state, and any municipal 66
corporation, county, township, school district, or other 67
political subdivision or any agency or instrumentality thereof. 68

(2) "Proof of COVID-19 vaccination" and "public official" 69
have the same meanings as in section 3792.03 of the Revised 70
Code. 71

(B) (1) No employer shall discharge without just cause, 72
refuse to hire, or otherwise discriminate against any individual 73

with respect to hire, tenure, terms, conditions, or privileges 74
of employment, or any matter directly or indirectly related to 75
employment for either of the following reasons: 76

(a) The individual refuses to disclose the individual's 77
COVID-19 vaccination status or show proof of COVID-19 78
vaccination. 79

(b) The individual refuses to provide a reason for not 80
disclosing the individual's COVID-19 vaccination status or 81
refuses to provide a reason for not showing proof of COVID-19 82
vaccination. 83

(2) Except as required by federal law, no employer that 84
acquires information regarding an individual's COVID-19 85
vaccination status shall disclose or release the information to 86
another employer, public official, or individual without the 87
individual's written consent. 88

(C) (1) In the event of an alleged violation of this 89
section, an individual may seek injunctive relief or bring a 90
civil action for damages in any court of competent jurisdiction. 91

(2) An individual is prohibited from bringing a civil 92
action under section 3792.03 of the Revised Code if the person 93
brought a civil action under division (C) (1) of this section 94
that is based, in whole or in part, on the same allegations and 95
practices. 96

Sec. 4117.10. (A) An agreement between a public employer 97
and an exclusive representative entered into pursuant to this 98
chapter governs the wages, hours, and terms and conditions of 99
public employment covered by the agreement. If the agreement 100
provides for a final and binding arbitration of grievances, 101
public employers, employees, and employee organizations are 102

subject solely to that grievance procedure and the state	103
personnel board of review or civil service commissions have no	104
jurisdiction to receive and determine any appeals relating to	105
matters that were the subject of a final and binding grievance	106
procedure. Where no agreement exists or where an agreement makes	107
no specification about a matter, the public employer and public	108
employees are subject to all applicable state or local laws or	109
ordinances pertaining to the wages, hours, and terms and	110
conditions of employment for public employees. All of the	111
following prevail over conflicting provisions of agreements	112
between employee organizations and public employers:	113
(1) Laws pertaining to any of the following subjects:	114
(a) Civil rights;	115
(b) Affirmative action;	116
(c) Unemployment compensation;	117
(d) Workers' compensation;	118
(e) The retirement of public employees;	119
(f) Residency requirements;	120
(g) The minimum educational requirements contained in the	121
Revised Code pertaining to public education including the	122
requirement of a certificate by the fiscal officer of a school	123
district pursuant to section 5705.41 of the Revised Code;	124
(h) The provisions of division (A) of section 124.34 of	125
the Revised Code governing the disciplining of officers and	126
employees who have been convicted of a felony;	127
(i) The minimum standards promulgated by the state board	128
of education pursuant to division (D) of section 3301.07 of the	129

Revised Code;	130
<u>(j) The law pertaining to COVID-19 vaccination status as</u>	131
<u>provided in section 4113.73 of the Revised Code.</u>	132
(2) The law pertaining to the leave of absence and	133
compensation provided under section 5923.05 of the Revised Code,	134
if the terms of the agreement contain benefits which are less	135
than those contained in that section or the agreement contains	136
no such terms and the public authority is the state or any	137
agency, authority, commission, or board of the state or if the	138
public authority is another entity listed in division (B) of	139
section 4117.01 of the Revised Code that elects to provide leave	140
of absence and compensation as provided in section 5923.05 of	141
the Revised Code;	142
(3) The law pertaining to the leave established under	143
section 5906.02 of the Revised Code, if the terms of the	144
agreement contain benefits that are less than those contained in	145
section 5906.02 of the Revised Code;	146
(4) The law pertaining to excess benefits prohibited under	147
section 3345.311 of the Revised Code with respect to an	148
agreement between an employee organization and a public employer	149
entered into on or after the effective date of this amendment	150
<u>September 29, 2015.</u>	151
Except for sections 306.08, 306.12, 306.35, and 4981.22 of	152
the Revised Code and arrangements entered into thereunder, and	153
section 4981.21 of the Revised Code as necessary to comply with	154
section 13(c) of the "Urban Mass Transportation Act of 1964," 87	155
Stat. 295, 49 U.S.C.A. 1609(c), as amended, and arrangements	156
entered into thereunder, this chapter prevails over any and all	157
other conflicting laws, resolutions, provisions, present or	158

future, except as otherwise specified in this chapter or as 159
otherwise specified by the general assembly. Nothing in this 160
section prohibits or shall be construed to invalidate the 161
provisions of an agreement establishing supplemental workers' 162
compensation or unemployment compensation benefits or exceeding 163
minimum requirements contained in the Revised Code pertaining to 164
public education or the minimum standards promulgated by the 165
state board of education pursuant to division (D) of section 166
3301.07 of the Revised Code. 167

(B) The public employer shall submit a request for funds 168
necessary to implement an agreement and for approval of any 169
other matter requiring the approval of the appropriate 170
legislative body to the legislative body within fourteen days of 171
the date on which the parties finalize the agreement, unless 172
otherwise specified, but if the appropriate legislative body is 173
not in session at the time, then within fourteen days after it 174
convenes. The legislative body must approve or reject the 175
submission as a whole, and the submission is deemed approved if 176
the legislative body fails to act within thirty days after the 177
public employer submits the agreement. The parties may specify 178
that those provisions of the agreement not requiring action by a 179
legislative body are effective and operative in accordance with 180
the terms of the agreement, provided there has been compliance 181
with division (C) of this section. If the legislative body 182
rejects the submission of the public employer, either party may 183
reopen all or part of the entire agreement. 184

As used in this section, "legislative body" includes the 185
governing board of a municipal corporation, school district, 186
college or university, village, township, or board of county 187
commissioners or any other body that has authority to approve 188
the budget of their public jurisdiction and, with regard to the 189

state, "legislative body" means the controlling board. 190

(C) The chief executive officer, or the chief executive 191
officer's representative, of each municipal corporation, the 192
designated representative of the board of education of each 193
school district, college or university, or any other body that 194
has authority to approve the budget of their public 195
jurisdiction, the designated representative of the board of 196
county commissioners and of each elected officeholder of the 197
county whose employees are covered by the collective 198
negotiations, and the designated representative of the village 199
or the board of township trustees of each township is 200
responsible for negotiations in the collective bargaining 201
process; except that the legislative body may accept or reject a 202
proposed collective bargaining agreement. When the matters about 203
which there is agreement are reduced to writing and approved by 204
the employee organization and the legislative body, the 205
agreement is binding upon the legislative body, the employer, 206
and the employee organization and employees covered by the 207
agreement. 208

(D) There is hereby established an office of collective 209
bargaining in the department of administrative services for the 210
purpose of negotiating with and entering into written agreements 211
between state agencies, departments, boards, and commissions and 212
the exclusive representative on matters of wages, hours, terms 213
and other conditions of employment and the continuation, 214
modification, or deletion of an existing provision of a 215
collective bargaining agreement. Nothing in any provision of law 216
to the contrary shall be interpreted as excluding the bureau of 217
workers' compensation and the industrial commission from the 218
preceding sentence. This office shall not negotiate on behalf of 219
other statewide elected officials or boards of trustees of state 220

institutions of higher education who shall be considered as 221
separate public employers for the purposes of this chapter; 222
however, the office may negotiate on behalf of these officials 223
or trustees where authorized by the officials or trustees. The 224
staff of the office of collective bargaining are in the 225
unclassified service. The director of administrative services 226
shall fix the compensation of the staff. 227

The office of collective bargaining shall: 228

(1) Assist the director in formulating management's 229
philosophy for public collective bargaining as well as planning 230
bargaining strategies; 231

(2) Conduct negotiations with the exclusive 232
representatives of each employee organization; 233

(3) Coordinate the state's resources in all mediation, 234
fact-finding, and arbitration cases as well as in all labor 235
disputes; 236

(4) Conduct systematic reviews of collective bargaining 237
agreements for the purpose of contract negotiations; 238

(5) Coordinate the systematic compilation of data by all 239
agencies that is required for negotiating purposes; 240

(6) Prepare and submit an annual report and other reports 241
as requested to the governor and the general assembly on the 242
implementation of this chapter and its impact upon state 243
government. 244

Section 2. That existing section 4117.10 of the Revised 245
Code is hereby repealed. 246

Section 3. This act shall be known as the Individual 247
Privacy and Anti-Discrimination Act. 248

Section 4. The provisions of this act are severable as 249
provided in section 1.50 of the Revised Code. 250

Section 5. This act is hereby declared to be an emergency 251
measure necessary for the immediate preservation of the public 252
peace, health, and safety. The reason for such necessity is 253
that, with the introduction of COVID-19 vaccines, citizens 254
across this state are being pressured to vaccinate. Therefore, 255
this act shall go into immediate effect. 256