



2023 South Dakota Legislature

House Bill 1235

HOUSE HEALTH AND HUMAN SERVICES ENGROSSED

Introduced by: **Representative Hansen**

1 **An Act to provide a conscience exemption from a COVID-19 vaccination.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That a NEW SECTION be added to title 34:**

4 For the purpose of this Act, the term, conscience, means a person's inner conviction
 5 regarding that which is right or wrong in the person's conduct.

6 **Section 2. That a NEW SECTION be added to title 34:**

7 A person has the right to be exempt from any COVID-19 vaccination mandate,
 8 requirement, obligation, or demand on the basis that receiving a COVID-19 vaccination
 9 violates the person's conscience. A person may exercise the right to be exempt under this
 10 Act orally or in writing.

11 **Section 3. That a NEW SECTION be added to title 34:**

12 No person may be subjected to any disciplinary action as a result of the person's
 13 decision to decline receipt of a COVID-19 vaccination on the basis of conscience.

14 For purposes of this section, the term, disciplinary action, means:

15 (1) Termination, demotion, or any loss of employment status; or

16 (2) Any loss of student status, including status in a particular course or program of
 17 study.

18 **Section 4. That a NEW SECTION be added to title 34:**

19 Before any person attempts to mandate or require another person to receive a
 20 COVID-19 vaccination, or attempts to condition another person's job or student status
 21 upon the receipt of a COVID-19 vaccination, that person must inform the other person of
 22 the right to the conscience exemption under this Act.

1 **Section 5. That a NEW SECTION be added to title 34:**

2 A civil action for damages or injunctive relief, or both, may be brought by any
3 person for any violation of this Act. A person, who is aggrieved by any violation of this Act
4 and commences a civil action, is entitled, upon the finding of a violation, to recover
5 threefold the actual damages sustained, along with the costs of the action and reasonable
6 attorney's fees.

7 **Section 6. That a NEW SECTION be added to title 34:**

8 A person's right to decline the receipt of a COVID-19 vaccination on the basis of
9 conscience, as set forth in this Act, is not applicable if, by complying with this Act, the
10 public or private entity requiring or mandating the vaccination would be:

11 (1) Violating a specific regulation that is promulgated by the Centers for Medicare and
12 Medicaid Services or the Centers for Disease Control and Prevention; or

13 (2) Violating a specific provision of a guidance document issued by the Centers for
14 Medicare and Medicaid Services or by the Centers for Disease Control and
15 Prevention.

16 **Section 7. That a NEW SECTION be added to title 34:**

17 This Act does not apply to the South Dakota National Guard or prevent the South
18 Dakota National Guard from requiring a COVID-19 vaccination, in compliance with a valid
19 and lawful command order that applies to a servicemember who is subject to federal
20 activation.