

SENATE BILL 9040

By Pody

AN ACT to amend Tennessee Code Annotated, Title 29;
Title 50, Chapter 1 and Title 50, Chapter 6, relative
to liability related to COVID-19 vaccination.

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

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 6, Part 2, is amended by
adding the following as a new section:

(a) For purposes of this section:

(1) "COVID-19" means the novel coronavirus, SARS-CoV-2, and
coronavirus disease 2019, including a mutation of the novel coronavirus, SARS-
CoV-2, and coronavirus disease 2019;

(2) "Employee" means an individual who performs services for an
employer for valuable consideration;

(3) "Employer" means a person or entity that employs one (1) or more
employees and includes the state and its political subdivisions; and

(4) "Medical treatment" means an immunization, vaccination, or injection
for COVID-19.

(b) It is a compensable claim if:

(1) An employee:

(A) Receives medical treatment solely due to an employer
mandate to do so as a condition of continued employment; and

(B) Is injured as a result of the medical treatment obtained due to
the employer's mandate; or

(2)

(A) An employer misstates that the medical treatment is one hundred percent (100%) effective at preventing a person from contracting COVID-19;

(B) The employee gets the medical treatment solely based on the employer's misstatement; and

(C) The employee is injured as a result of the medical treatment.

(c) The administrator shall expedite a claim brought pursuant to this section by giving cases under this section priority over all other cases.

SECTION 2. Tennessee Code Annotated, Title 50, Chapter 1, Part 3, is amended by adding the following as a new section:

(a) For purposes of this section:

(1) "COVID-19" means the novel coronavirus, SARS-CoV-2, and coronavirus disease 2019, including a mutation of the novel coronavirus, SARS-CoV-2, and coronavirus disease 2019;

(2) "Employee" means an individual who performs services for an employer for valuable consideration;

(3) "Employer" means a person or entity that employs one (1) or more employees and includes the state and its political subdivisions;

(4) "Healthcare provider" means a healthcare practitioner, person, or facility licensed, authorized, certified, registered, or regulated under title 33, title 63, title 68, federal law, or an executive order of the governor, including, but not limited to, an employee, agent, or contractor of such practitioner, person, or facility, and residents, interns, students, fellows, or volunteers of an accredited school or of such school's affiliated teaching or training hospitals or programs in this state;

(5) "Medical treatment" means an immunization, vaccination, or injection for COVID-19;

(6) "Person" means an individual, healthcare provider, sole proprietorship, corporation, limited liability company, partnership, trust, religious organization, association, nonprofit organization described in § 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c), that is exempt from federal income taxation under § 501(a) of the Internal Revenue Code, 26 U.S.C. § 501(a), or any other legal entity whether formed as a for-profit or not-for-profit entity; and

(7) "Political subdivision" means a local governmental entity, including a city, town, municipality, metropolitan government, county, utility district, school district, public building authority, housing authority, emergency communications district, county board of health, and development district created and existing pursuant to the laws of this state, or an instrumentality of government created by one (1) or more local governmental entities.

(b) Notwithstanding title 50, chapter 6, part 2, or another law to the contrary, an employee has a private cause of action against an employer if:

(1) The employee:

(A) Receives medical treatment solely due to an employer mandate to do so as a condition of continued employment; and

(B) Is injured as a result of the medical treatment obtained due to the employer's mandate, including due to care provided by a person or healthcare provider permitted on the employer's premises by the employer for purposes of administering the medical treatment; or

(2)

(A) An employer misstates that the medical treatment is one hundred percent (100%) effective at preventing a person from contracting COVID-19;

(B) The employee gets the medical treatment solely based on the employer's misstatement; and

(C) The employee is injured as a result of the medical treatment, including due to care provided by a person or healthcare provider permitted on the employer's premises by the employer for purposes of administering the medical treatment.

(c) An employee may recover court costs, reasonable attorneys' fees, and other fees deemed appropriate by a court of competent jurisdiction.

SECTION 3. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 4. This act takes effect January 1, 2022, the public welfare requiring it.