

ENROLLED ACT NO. 1, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 SPECIAL SESSION 1

AN ACT relating to the protection of individual rights; providing legislative findings; prohibiting the enforcement of federal COVID-19 vaccine mandates as specified; providing definitions; authorizing litigation to protect the rights of Wyoming citizens and the state of Wyoming as specified; providing an appropriation; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.**

(a) The legislature finds that:

(i) In December 2019, a novel coronavirus known as severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) was first detected in China, leading to outbreaks of novel coronavirus disease (COVID-19) that have now spread globally;

(ii) Throughout 2020 and 2021, vaccines for COVID-19 were developed, authorized and approved under the 45th and 46th presidents of the United States by the federal food and drug administration;

(iii) On September 9, 2021, the 46th president of the United States announced that a federal Occupational Safety and Health Administration (OSHA) rule would be promulgated to require all businesses with one hundred (100) or more employees to ensure that every employee is either vaccinated for COVID-19 or tested at least one (1) time every week for COVID-19;

(iv) As part of the plan announced by the President, the centers for Medicare and Medicaid services,

ENROLLED ACT NO. 1, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 SPECIAL SESSION 1

in collaboration with the centers for disease control and prevention, announced that current emergency regulations requiring vaccinations for nursing home workers would be expanded to include hospitals, dialysis facilities, ambulatory surgical settings and home health agencies, among others, as a condition for participating in the Medicare and Medicaid programs. The announcement indicated that these vaccine mandates will apply to both health care providers and suppliers that participate in the Medicare and Medicaid programs;

(v) It is expected that the federal occupational safety and health administration and the centers for Medicare and Medicaid services will promulgate emergency standards that will require Medicare and Medicaid health care workers and suppliers and all employers in Wyoming and the entire United States with one hundred (100) employees or more to ensure that all of their employees are either fully vaccinated for COVID-19 or ensure that all of their employees are tested at least one (1) time per week for COVID-19;

(vi) Countless Wyoming citizens fear losing their livelihoods because they object to receiving a COVID-19 vaccination for reasons of personal conscience, religious conviction or for medical reasons, including prior recovery or natural immunity from COVID-19;

(vii) The decision to receive a COVID-19 vaccination is a personal decision and should not be subject to government coercion, intrusion or dictate;

(viii) The decision to implement hiring practices for private employers is a personal decision and

ENROLLED ACT NO. 1, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 SPECIAL SESSION 1

should not be subject to government coercion, intrusion or dictate;

(ix) The Ninth Amendment to the United States Constitution provides that the enumeration in the constitution of certain rights shall not be construed to deny or disparage other rights retained by the people;

(x) The Tenth Amendment to the United States Constitution provides that the powers not delegated to the United States in the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people;

(xi) Article 1, section 38, subsection (a) of the Wyoming constitution provides that "[e]ach competent adult shall have the right to make his or her own health care decisions;"

(xii) Article 1, section 38, subsection (c) of the Wyoming constitution provides that the "legislature may determine reasonable and necessary restrictions on the rights granted under this section to protect the health and general welfare of the people or to accomplish the other purposes set forth in the Wyoming Constitution;"

(xiii) Article 1, section 38, subsection (d) of the Wyoming constitution provides that the "state of Wyoming shall act to preserve these rights from undue governmental infringement;"

(xiv) Through various legislative enactments, the legislature has established its primary role over immunizations, and all immunization laws and regulations in Wyoming are based on laws that the legislature has enacted;

ENROLLED ACT NO. 1, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 SPECIAL SESSION 1

(xv) The legislature has established a process by which persons can submit religious exemptions to vaccination mandates, and the legislature can amend the exemption process from time to time as it sees fit;

(xvi) By imposing a COVID-19 vaccination mandate on the people and businesses of Wyoming, the federal government's actions constitute an abridgement of both the United States and the Wyoming Constitutions;

(xvii) The state of Wyoming as a sovereign entity cannot be compelled to enforce vaccination mandates from the federal government that might well be deemed an unconstitutional exercise of the power of interpretation, to insist that the states are bound to provide means to carry into effect the duties of the federal government, nowhere delegated or entrusted to them by the constitution;

(xviii) Under the separation of powers, the federal government may not simply commandeer the legislative processes of the states by directly compelling them to enact and enforce a federal regulatory program. While Congress and the federal executive branch have substantial powers to govern the nation directly, including in areas of intimate concern to the states, the United States Constitution has never been understood to confer upon the federal government the ability to require the states to govern according to the instructions of the federal government;

(xix) Our system of government rests on what might at first seem a counterintuitive insight, that freedom is enhanced by the creation of two (2) governments, not one (1). For this reason, the United States

ENROLLED ACT NO. 1, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 SPECIAL SESSION 1

Constitution has never been understood to confer upon Congress nor the federal executive branch the ability to require the states to govern according to their instructions. Otherwise, the two (2) government system established by the framers would give way to a system that vests power in one (1) central government, and individual liberty would suffer; and

(xx) The directive issued by the federal executive branch and the forthcoming rules by federal agencies regarding COVID-19 vaccination mandates cannot be a more direct affront to state sovereignty. The state of Wyoming rejects these devices by the federal government under the anti-commandeering doctrine. This doctrine is simply that of a fundamental structural decision incorporated into the United States Constitution, the decision to withhold from the federal government the power to issue orders directly to the states. Conspicuously absent from the list of powers given to Congress is the power to issue direct orders to the governments of the states. The anti-commandeering doctrine simply represents the recognition of this limit on federal authority.

(b) The legislature resolves that:

(i) The legislature strongly condemns the promulgation of any federal COVID-19 vaccination requirement or mandate as an infringement on the rights of the citizens of Wyoming to make their own healthcare decisions without governmental coercion, intrusion or dictate. The federal government does not have the right to impose such mandates on the states, and doing so violates the tenth amendment to the United States Constitution and article 1, section 38 of the Wyoming Constitution;

ENROLLED ACT NO. 1, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 SPECIAL SESSION 1

(ii) The states are laboratories of good policy. Each individual state should be granted the freedom to determine its own policies regarding how the COVID-19 pandemic is managed within its borders without interference from the federal government;

(iii) No public entity in Wyoming should be coerced into enforcing any mandate, requirement or standard of the federal government, whether emergency, temporary or permanent, that requires an employer to ensure or mandate that an employee shall receive a COVID-19 vaccination;

(iv) No public entity should be required to enforce any federal law, regulation, rule, standard or order relating to a COVID-19 vaccine requirement or mandate;

(v) No public entity should be coerced into requiring a person to receive or show proof of a COVID-19 vaccination for the person to receive or qualify for any public benefit to which the person is entitled;

(vi) The attorney general is empowered to initiate or participate in litigation and to take any other appropriate action to challenge and resist federal COVID-19 vaccine mandates or requirements that are contrary to federal and state law and that infringe on the rights of Wyoming citizens.

**Section 2.** W.S. 9-14-103 is created to read:

**9-14-103. COVID-19 vaccine mandate; prohibitions.**

(a) As used in this section:

ENROLLED ACT NO. 1, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 SPECIAL SESSION 1

(i) "COVID-19" means as defined by W.S. 1-1-141(a)(ii);

(ii) "COVID-19 vaccination" means any vaccine that is marketed to prevent COVID-19 or any vaccine that is marketed to diminish or decrease the symptoms of COVID-19;

(iii) "Public entity" means as defined by W.S. 16-6-101(a)(viii) except that "public entity" does not include an entity receiving federal funding that by complying with subsection (b) of this section would lose that federal funding.

(b) No public entity shall enforce any mandate or standard of the federal government, whether emergency, temporary or permanent, that requires an employer to ensure or mandate that an employee shall receive a COVID-19 vaccination.

(c) Except as otherwise provided in this section, to the extent that this section conflicts with a federal law, regulation, rule, standard or order, subsection (b) of this section shall not be enforced after the federal law, regulation, rule, standard or order takes legal effect that requires Wyoming employers to comply with a federal COVID-19 vaccine requirement or mandate.

(d) Notwithstanding subsection (c) of this section, subsection (b) of this section shall be enforceable during any period in which the federal law, regulation, rule, standard or order is subject to a federal judicial stay applicable in Wyoming or is otherwise repealed, withdrawn, superseded or declared by a federal court of competent jurisdiction to be unlawful or unenforceable.

ENROLLED ACT NO. 1, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 SPECIAL SESSION 1

**Section 3.**

(a) With the direction and consent of the governor, the attorney general's office may initiate or participate in litigation and take any other appropriate action to challenge and resist federal government action related to COVID-19 vaccination mandates that are contrary to the law and the rights of Wyoming citizens.

(b) Litigation under this section may include:

(i) Initiating an action in the name of the state of Wyoming as the party aggrieved by a violation of the Tenth Amendment, or other protections reserved to the states under the United States Constitution, involving federal overreach into rights reserved to the states and asserting standing on additional grounds including that the state accepts federal funding and federal contracts and is therefore injured by federal threats and coercion to withhold federal funding, which constitute an unconstitutionally coercive exercise of federal spending power;

(ii) Joining a lawsuit initiated by Wyoming residents who were personally injured, or whose livelihood is negatively affected, by federal vaccine mandates, pursuant to W.S. 9-1-603(a)(iv).

**Section 4.** There is appropriated four million dollars (\$4,000,000.00) from the general fund to the governor's office for purposes of funding the legal and other action authorized by section 3 of this act. This appropriation shall be for the period beginning with the effective date of this act and ending June 30, 2030. This appropriation shall not be transferred or expended for any other purpose



ENROLLED ACT NO. 1, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 SPECIAL SESSION 1

and any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2030. It is the intent of the legislature that this appropriation not be included in the governor's standard budget for the immediately succeeding fiscal biennium.

**Section 5.** The Wyoming secretary of state shall transmit copies of this act to the President of the United States, the Speaker of the United States House of Representatives, the President and the President Pro Tempore of the United States Senate, the Majority and Minority Leader and Whip of each house of the United States Congress and to Wyoming's Congressional Delegation.

ORIGINAL HOUSE  
BILL NO. HB1002

ENGROSSED

ENROLLED ACT NO. 1, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 SPECIAL SESSION 1

**Section 6.** This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk