

## SENATE FILE NO. SF0114

Employer COVID-19 vaccine mandates and exemptions.

Sponsored by: Senator(s) Dockstader, Driskill, Ellis and  
Landen and Representative(s) Barlow

A BILL

for

1 AN ACT relating to labor and employment; implementing  
2 requirements governing employer COVID-19 vaccine mandates;  
3 providing definitions; requiring employers to provide  
4 exemptions to employees as part of any employer required  
5 COVID-19 vaccine mandate; specifying grounds for granting  
6 exemptions; providing employer protections as specified;  
7 providing for the investigation of employee COVID-19  
8 vaccine mandate complaints by the department of workforce  
9 services; authorizing administrative review of a department  
10 determination by the office of administrative hearings;  
11 providing penalties for employers who violate the  
12 requirements governing employer COVID-19 vaccine mandates;  
13 specifying the applicability of requirements governing  
14 employer COVID-19 vaccine mandates under the Wyoming  
15 employment security law; providing exceptions to

1 requirements governing employer COVID-19 vaccine mandates  
2 for conflicting federal law or regulations; requiring  
3 rulemaking; providing a sunset date; and providing for an  
4 effective date.

5

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

7

8 **Section 1.**

9

10 (a) This act shall be known as and may be cited as  
11 the "Employer Vaccination Mandate Law."

12

13 (b) As used in this section:

14

15 (i) "COVID-19" means as defined by W.S.  
16 1-1-141(a)(ii);

17

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

21

22 (iii) "Employer" means the state of Wyoming or  
23 any political subdivision or board, commission, department,

1 institution or school district thereof and every other  
2 person employing two (2) or more employees within the  
3 state. "Employer" shall not include any religious  
4 organization or association or any other entity subject to  
5 the requirements imposed by 86 Fed. Reg. 61,555 (November  
6 5, 2021), promulgated by the centers for Medicaid and  
7 Medicare services.

8

9 (c) No employer shall impose a COVID-19 vaccine  
10 mandate for any full-time, part-time, or contract employee  
11 without providing individual vaccine exemptions that allow  
12 the employee to opt out of the mandate.

13

14 (d) An employer shall grant an exemption as specified  
15 in this subsection to an employee for any COVID-19 vaccine  
16 mandate and subject to the following requirements:

17

18 (i) To receive an exemption based on medical  
19 grounds, including pregnancy or anticipated pregnancy, an  
20 employee shall submit to the employer an exemption  
21 statement, dated and signed by a physician, physician  
22 assistant or an advanced practice registered nurse who is  
23 licensed in this state and whose license is active and in

1 good standing. To qualify for an exemption under this  
2 paragraph, the exemption statement shall provide that, in  
3 the professional opinion of the physician, physician  
4 assistant or advanced practice registered nurse, a COVID-19  
5 vaccination is not in the best medical interest of the  
6 employee;

7

8 (ii) To receive an exemption based on religious  
9 grounds, an employee shall submit to the employer an  
10 exemption statement verifying that the employee declines  
11 the COVID-19 vaccination due to a sincerely held religious  
12 belief;

13

14 (iii) To receive an exemption based on COVID-19  
15 immunity, an employee shall submit to the employer an  
16 exemption statement verified by competent medical evidence  
17 demonstrating that the employee has an immunity to COVID-  
18 19, which evidence shall be documented from the results of  
19 valid laboratory tests performed on the employee. The  
20 department of health shall promulgate rules specifying the  
21 standard under which medical evidence demonstrating  
22 COVID-19 immunity shall be evaluated by the employer,

1 including the maximum time for which laboratory test  
2 results shall be valid for determining a COVID-19 immunity;

3

4 (iv) To receive an exemption based on regular  
5 COVID-19 testing, an employee shall present to the employer  
6 an exemption statement verifying that the employee agrees  
7 to comply with regular testing for the presence of COVID-19  
8 using tests approved or authorized by the United States  
9 food and drug administration to detect a current COVID-19  
10 infection. Under this paragraph, the test shall be  
11 administered at no cost to the employee and at times and  
12 locations established by the employer;

13

14 (v) To receive an exemption based on employer-  
15 provided personal protective equipment, the employee shall  
16 submit to the employer an exemption statement verifying  
17 that the employee agrees to comply with the employer's  
18 reasonable written requirement to use employer-provided  
19 personal protective equipment when in the presence of other  
20 employees or persons or other reasonable measures to  
21 prevent the spread of COVID-19 in the workplace.

22

1           (e) Any employee request for a COVID-19 vaccine  
2 exemption under subsection (d) of this section shall be  
3 submitted on a completed exemption statement and  
4 accompanied by a certification form authorized by the  
5 department of health. All certification forms shall state  
6 the date and place of execution and immediately above the  
7 employee's signature state the following:

8

9 "I certify under penalty of false swearing that the  
10 foregoing is true".

11

12           (f) An employee who knowingly makes a false  
13 certification under subsection (e) of this section is  
14 guilty of a misdemeanor punishable by imprisonment for not  
15 more than six (6) months, a fine of not more than seven  
16 hundred fifty dollars (\$750.00), or both.

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18           (g) No employer shall impose a policy or requirement  
19 that prohibits any employee from receiving, or from having  
20 previously received, a COVID-19 vaccination.

21

22           (h) Any employer who has granted an exemption to an  
23 employee under paragraph (d)(i), (ii) or (iii) of this

1 section, may require the exempted employee to comply with  
2 the employer's reasonable written requirement to use  
3 employer-provided personal protective equipment when in the  
4 presence of other employees or persons and may require  
5 other reasonable measures to prevent the spread of COVID-19  
6 in the workplace.

7

8 (j) Nothing in this section shall prohibit an  
9 employer from disciplining an employee or terminating the  
10 employment relationship for any reason not contrary to law,  
11 including:

12

13 (i) Failing to comply with the employer's  
14 mandatory COVID-19 vaccination policy for an employee who  
15 did not qualify for or was otherwise not granted an  
16 exemption under subsection (d) of this section;

17

18 (ii) Making a false statement or submitting  
19 fraudulent information as part of any exemption statement  
20 submitted by the employee to the employer requesting a  
21 COVID-19 vaccine exemption under subsection (d) of this  
22 section;

23

1           (iii) Failing to comply with the employer's  
2 directions regarding regular COVID-19 testing in accordance  
3 with paragraph (d)(iv) of this section; or

4

5           (iv) Failing to comply with the employer's  
6 reasonable written policy requiring the use of personal  
7 protective equipment or other reasonable measures to  
8 prevent the spread of COVID-19 in the workplace.

9

10          (k) Any employer who grants an exemption to any  
11 employee in accordance with subsection (d) of this section  
12 shall not be subject to any penalty imposed under W.S.  
13 27-11-107 based on the alleged transmission of COVID-19 in  
14 the employer's workplace.

15

16          (m) Any employee who was terminated by their employer  
17 because the employee refused to be vaccinated under the  
18 employer's COVID-19 vaccine mandate and who before the  
19 termination applied for and was entitled to an exemption  
20 under subsection (d) of this section may file a complaint  
21 with the department of workforce services, labor standards  
22 division. The complaint shall allege the facts and  
23 circumstances under which the employee was terminated,



1 including information on the type of exemption that the  
2 employee applied for and which was improperly denied by the  
3 employer in violation of the subsection (d) of this  
4 section. Upon receipt of a complaint under this subsection,  
5 the department of workforce services, labor standards  
6 division, shall conduct an investigation of the complaint,  
7 which investigation shall determine:

8

9 (i) Whether the employer imposed a COVID-19  
10 vaccine mandate;

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12 (ii) Whether the employee submitted a proper  
13 exemption statement and was entitled to a COVID-19 vaccine  
14 exemption under subsection (d) of this section;

15

16 (iii) Whether the employee was terminated  
17 because of their refusal to be vaccinated as required under  
18 the employer's COVID-19 vaccine mandate; and

19

20 (iv) Any other question the division deems  
21 relevant to disposition of the issue raised in the  
22 complaint.

23

1           (n) If the department of workforce services, labor  
2 standards division, investigation determines an employer  
3 did not violate subsection (d) of this section by refusing  
4 to grant a COVID-19 vaccine exemption, the employee may  
5 request a de novo hearing before the office of  
6 administrative hearings by submitting a written request to  
7 the division within fifteen (15) days of the date of the  
8 department's determination. If the division investigation  
9 determines an employer violated subsection (d) of this  
10 section by refusing to grant a COVID-19 vaccine exemption,  
11 the terminated employee's complaint shall be referred to  
12 the office of administrative hearings for a de novo  
13 hearing. The office of administrative hearings shall  
14 initiate and conduct a contested case in accordance with  
15 procedures of the Wyoming Administrative Procedure Act and  
16 the Wyoming Rules of Civil Procedure as applicable under  
17 rules of the office of administrative hearings. In the  
18 event the hearing examiner appointed by the office of  
19 administrative hearings concludes the employer violated  
20 subsection (d) of this section by refusing to grant a  
21 COVID-19 vaccine exemption, the hearing officer shall  
22 determine whether the terminated employee should be  
23 reinstated in their employment, the amount of any back pay

1 that should be awarded to the employee, if any, and the  
2 penalty to be assessed against the employer in accordance  
3 with subsection (o) of this section.

4

5 (o) Any employer with less than one hundred (100)  
6 employees in this state who violates subsection (d) of this  
7 section by refusing to grant a COVID-19 vaccine exemption  
8 to an employee who was entitled the exemption shall be  
9 liable for a civil fine not to exceed one thousand dollars  
10 (\$1,000.00) per violation. Any employer with more than one  
11 hundred (100) employees in this state who violates  
12 subsection (d) of this section by refusing to grant a  
13 COVID-19 vaccine exemption shall be liable for a civil fine  
14 not to exceed two thousand five hundred dollars (\$2,500.00)  
15 per violation. In determining the amount of fine to be  
16 levied under this subsection, the hearing examiner shall  
17 consider:

18

19 (i) Whether the employer knowingly or willfully  
20 violated subsection (d) of this section;

21

1           (ii) Whether the employer operated in good faith  
2 in attempting to comply with subsection (d) of this  
3 section;

4

5           (iii) Whether the employer took or attempted to  
6 take appropriate action to correct any alleged violation;

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8           (iv) Whether the employer had previously been  
9 found to have violated subsection (d) of this section; and

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11           (v) Any other mitigating or aggravating factor  
12 that fairness or due process requires.

13

14           (p) A final decision of a hearing examiner under  
15 subsection (n) of this section shall be subject to judicial  
16 review under W.S. 16-3-114 and in accordance with the  
17 Wyoming Rules of Appellate Procedure.

18

19           (q) Any employee terminated by their employer for  
20 refusing to comply with a COVID-19 vaccination mandate or  
21 who resigns from their employment rather than comply with a  
22 COVID-19 vaccination mandate, and whose employer did not  
23 offer or improperly denied a COVID-19 vaccine exemption

1 required under subsection (d) of this section, shall not be  
2 disqualified from benefit entitlement under the Wyoming  
3 Employment Security Law for having left their most recent  
4 work voluntarily without good cause attributable directly  
5 to their employment for misconduct connected with their  
6 work under W.S. 27-3-311(a)(i) or (f).

7

8 (r) The department of health shall adopt necessary  
9 rules, and may adopt emergency rules under this subsection,  
10 specifying:

11

12 (i) The circumstances under which, and the  
13 maximum timeframe within which, an employee who anticipates  
14 a pregnancy will qualify for a medical grounds exemption  
15 under paragraph (d)(i) of this section;

16

17 (ii) Standards for submitting competent medical  
18 evidence under paragraph (d)(iii) of this section,  
19 including the maximum time for which laboratory test  
20 results shall be valid for determining that an employee has  
21 an immunity to COVID-19;

22

1           (iii) Standards and requirements regarding the  
2 frequency and methods of testing which may be used by  
3 employers under paragraph (d)(iv) of this section; and

4  
5           (iv) Any other standards or requirements  
6 determined by the department to be necessary to administer  
7 this section.

8  
9           (s) The department of health shall make available  
10 uniform forms for use by:

11  
12           (i) A physician, a physician assistant or an  
13 advanced practice registered nurse to document an exemption  
14 based on medical grounds under paragraph (d)(i) of this  
15 section;

16  
17           (ii) An employee to submit an exemption based on  
18 religious grounds under paragraph (d)(ii) of this section;

19  
20           (iii) An employee to submit an exemption based  
21 on COVID-19 immunity under paragraph (d)(iii) of this  
22 section, which includes the laboratory test criteria for  
23 proof of a COVID-19 immunity;

1

2 (iv) An employee to submit an exemption based on  
3 regular testing under paragraph (d)(iv) of this section,  
4 which includes the required frequency of testing and  
5 acceptable tests that may be used to receive the exemption;  
6 and

7

8 (v) An employee to submit an exemption based on  
9 employer provided personal protective equipment under  
10 paragraph (d)(v) of this section.

11

12 (t) The department of workforce services shall  
13 promulgate necessary rules for the investigation of  
14 employee complaints and issuance of determinations under  
15 subsection (m) of this section.

16

17 (u) This section shall not apply to any employer who:

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19 (i) Is required by federal law or regulation, or  
20 through a term of a contract with the federal government,  
21 to implement and enforce a COVID-19 vaccine mandate for its  
22 employees; or

23

1           (ii) Is covered by any federal law or regulation  
2 that prohibits the employer from complying with this act,  
3 while such law, regulation or contract remains in effect  
4 over the employer.

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6           (w) This section is repealed effective June 30, 2023.

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8           **Section 2.** The department of workforce services and  
9 the department of health shall widely disseminate and make  
10 available this act to all employers and employees in  
11 Wyoming. The dissemination required under this act shall at  
12 the minimum require each department to conspicuously post  
13 this act in its entirety on the departments' respective  
14 official websites and to make copies of this act available  
15 to the public.

16

17           **Section 3.** The provisions of this act regulating  
18 employer COVID-19 vaccine mandates shall apply only to  
19 employers that require or mandate that their employees  
20 receive a COVID-19 vaccination as a condition of employment  
21 that takes effect on and after the effective date of this  
22 act and to employers who have issued a COVID-19 vaccine  
23 mandate or requirement before the effective date of this



1 act but that takes effect on or after the effective date of  
2 this act.

3

4 **Section 4.** This act is effective July 1, 2022.

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(END)