

AMENDMENTS TO HOUSE BILL NO. 262

Sponsor: REPRESENTATIVE COX

Printer's No. 233

1 Amend Bill, page 1, line 3, by striking out "vaccination" and
2 inserting
3 injection

4 Amend Bill, page 2, by inserting between lines 1 and 2
5 "Injection." A vaccination or any other medical product or
6 drug delivered into an individual's body using a needle and
7 syringe.

8 Amend Bill, page 2, line 11, by inserting after "required"
9 or explicitly authorized

10 Amend Bill, page 2, line 13, by striking out ", except for
11 the use of marijuana; or" and inserting a semicolon

12 Amend Bill, page 2, line 14, by striking out "is"

13 Amend Bill, page 2, line 17, by striking out the period after
14 "seq.)" and inserting

15 ; or
16 (iv) minimally invasive visual examinations of the
17 eyes, ears, nose, mouth and throat, which are necessary
18 to check for the symptoms of infectious disease or other
19 significant medical conditions.

20 Amend Bill, page 2, line 21, by striking out "Prohibited
21 acts" and inserting

22 Right to refuse

23 Amend Bill, page 2, by inserting between lines 21 and 22

24 (a) Reasons.--An employee or prospective employee shall have
25 the right to refuse to participate in an invasive medical test
26 or injection required by the employer for any of the following
27 reasons:

1 (1) The employee or prospective employee objects in
2 writing based on the written statement of a physician or the
3 physician's designee stating that the invasive medical test
4 or injection may be detrimental to the health of the employee
5 or prospective employee.

6 (2) The employee or prospective employee objects in
7 writing to the invasive medical test or injection on
8 religious grounds or on the basis of a strong moral or
9 ethical conviction similar to a religious belief.

10 (3) The employee or prospective employee objects in
11 writing to the invasive medical test or injection on the
12 grounds that the test or injection:

13 (i) has not been approved by the United States Food
14 and Drug Administration; or

15 (ii) has been approved by the United States Food and
16 Drug Administration after expedited development and
17 review permissible under section 506 of the Federal Food,
18 Drug, and Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 356),
19 if the expedited development and review was completed in
20 less than three years. The employee or prospective
21 employee may not object to an invasive medical test or
22 injection under this paragraph if the test or injection
23 has been approved by the United States Food and Drug
24 Administration for more than three years.

25 (4) The employee submits an affidavit to the employer
26 stating that the employee objects to an injection on the
27 grounds that the employee has already been infected with the
28 disease that the required injection is intended to prevent.

29 (b) Prohibited acts.--

30 Amend Bill, page 2, line 28, by striking out "vaccination"

31 and inserting

32 injection

33 Amend Bill, page 2, line 28, by inserting after "employer"

34 , if the employee or prospective employee has refused on
35 grounds allowed under subsection (a) and in accordance with
36 section 4

37 Amend Bill, page 2, line 30, by striking out the period after

38 "act" and inserting

39 in a manner that does not disrupt the normal business
40 operations of the employer.

41 Section 4. Obligations of employees, prospective employees and
42 employers.

43 (a) Notice of requirement.--An employer shall provide notice
44 of a requirement for an employee or prospective employee to
45 receive an invasive medical test or injection at least 10 days
46 prior to the date that the employee or prospective employee is

1 required to receive the test or injection. The following apply:

2 (1) The notice shall be provided in writing or
3 electronically and shall include notice of the employee's or
4 prospective employee's rights under this act.

5 (2) If urgent or emergent circumstances make it
6 impractical to comply with this subsection, an employer shall
7 make good faith efforts to provide as much advance notice as
8 practical, or to obtain the verbal consent of the employee or
9 prospective employee for the test or injection if it is
10 impossible to provide advance notice.

11 (b) Employee refusal.--An employee or prospective employee
12 who refuses an invasive medical test or injection shall provide
13 written notice to the employer explaining the reasons for
14 refusal and shall include any supporting documentation. The
15 employee's or prospective employee's written notice may be
16 provided at any time prior to the deadline for the employee or
17 prospective employee to receive the test or injection.

18 (c) Employer response to refusal.--As soon as practicable
19 but no later than three business days after receipt of notice of
20 refusal under subsection (b), the employer shall provide a
21 written response to the employee or prospective employee who has
22 refused an invasive medical test or injection. The employer may:

23 (1) Grant an exception to the requirement for an
24 invasive medical test or injection without any additional
25 requirements for the employee.

26 (2) Provide a reasonable accommodation to the employee
27 or prospective employee in lieu of requiring the invasive
28 medical test or injection.

29 (3) Notify the employee or prospective employee that the
30 employee's or prospective employee's reason for refusal is
31 not protected under section 3(a) and that an exception will
32 not be granted.

33 (4) Make a request for additional information or
34 documentation that is required by section 3(a), but was not
35 provided by the employee or prospective employee, clearly
36 indicating to the employee or prospective employee what
37 additional information or documentation will be necessary to
38 grant an exception to the requirement under paragraph (1) or
39 provide a reasonable accommodation to the employee under
40 paragraph (2).

41 Amend Bill, page 3, line 1, by striking out "4" and inserting

42 5

43 Amend Bill, page 3, line 8, by striking out "three" and
44 inserting

45 two

46 Amend Bill, page 3, line 9, by inserting after "knew"

1 or should have known

2 Amend Bill, page 3, line 10, by striking out "5" and
3 inserting

4 6

5 Amend Bill, page 3, line 11, by inserting before "If"

6 (a) Relief if employer did not meet obligations.--

7 Amend Bill, page 3, line 12, by striking out "4" and
8 inserting

9 5

10 Amend Bill, page 3, line 13, by inserting after "relief"

11 , if the court finds that the employer did not make a good
12 faith effort to meet its obligations under section 4

13 Amend Bill, page 3, by inserting between lines 21 and 22

14 (b) Relief if employer did meet obligations.--If an employee
15 or prospective employee prevails in an action commenced under
16 section 5, the employee or prospective employee shall be
17 entitled to the following relief, if the court finds that the
18 employer made a good faith effort to meet its obligations under
19 section 4:

20 (1) Reinstatement of the employee, if applicable.

21 (2) Restitution equal to the amount of the individual's
22 wages and fringe benefits or prospective wages and fringe
23 benefits calculated from the date of the retaliation or
24 discrimination.

25 (3) Reasonable attorney fees and costs of the action.

26 (c) Employee not entitled to relief.--An employee or
27 prospective employee shall not be entitled to relief under this
28 act if the court finds that the employee or prospective employee
29 did not make a good faith effort to comply with the employee's
30 or prospective employee's obligations under section 4.

31 (d) Injury from invasive medical test or injection.--If an
32 employee is injured as the result of an invasive medical test or
33 injection required by an employer, the injury shall be
34 compensable under the act of June 2, 1915 (P.L.736, No.338),
35 known as the Workers' Compensation Act. The following apply:

36 (1) The employee's right to refuse an invasive medical
37 test or injection for reasons provided in section 3(a) and
38 the employer's compliance with this act shall not be
39 construed to mitigate the employer's liability under the
40 Workers' Compensation Act for any injury resulting from a
41 required invasive medical test or injection, regardless of
42 whether the employee requested an exception.

43 (2) This act shall not be construed to limit the

1 liability of a third party responsible for an injury that
2 results from an invasive medical test or injection required
3 by an employer.

4 Section 7. Construction.

5 (a) Workplace safety.--This act shall not be construed to
6 prohibit an employer from implementing safety policies and
7 procedures intended to maintain a safe work environment for
8 employees or requiring noninvasive medical testing for employees
9 to prevent the spread of infectious disease. Employer actions
10 that do not violate this act include:

11 (1) Requiring an employee or prospective employee to
12 report symptoms or diagnoses of infectious diseases or
13 conduct noninvasive screenings for symptoms.

14 (2) Requiring an employee or prospective employee who
15 has exhibited symptoms or has been diagnosed with an
16 infectious disease to provide documentation from a physician
17 or the physician's designee stating that an employee or
18 prospective employee may enter the workplace.

19 (3) Requiring an employee who exhibits symptoms of
20 illness to leave the workplace until the employee no longer
21 exhibits symptoms.

22 (4) Requiring an employee to conduct work duties from
23 the employee's home or another remote location to avoid the
24 spread of infectious disease.

25 (5) Providing emergency first aid in good faith to an
26 employee who is incapacitated or incapable of communicating
27 the employee's wishes to the individuals providing first aid.

28 (b) Additional precautions for employees who refuse an
29 injection.--It shall not be considered retaliation or
30 discrimination under this act to require an employee who
31 lawfully refuses an injection under section 3(a) to engage in
32 additional precautions, which are not required of employees who
33 received the injection, to prevent the spread of infectious
34 disease. An employer may require additional precautions as part
35 of a reasonable accommodation for an employee who lawfully
36 refuses an injection, including:

37 (1) Requiring the employee to conduct job duties from
38 the employee's home or another remote location if the
39 employee is able to do so.

40 (2) Requiring the employee to utilize personal
41 protective equipment intended to prevent the spread of
42 infectious disease.

43 (3) Placing restrictions on the employee's physical
44 proximity to other employees, or other individuals whom the
45 employee will encounter during the course of employment, in
46 situations where close physical proximity is not necessary
47 for the employee to perform work duties.

48 (4) Screening the employee for symptoms of infectious
49 disease or requiring the employee to report symptoms to the
50 employer.

1 Amend Bill, page 3, line 22, by striking out "6" and
2 inserting
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