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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2731 Session of  
2020

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INTRODUCED BY DIAMOND, BOROWICZ, COX, KAUFFMAN, RYAN, ZIMMERMAN,  
ROWE AND RADER, JULY 30, 2020

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JULY 30, 2020

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AN ACT

1 Providing for the right of an employee or prospective employee  
2 to refuse to participate in an invasive medical test or  
3 vaccination required by an employer.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Right to  
8 Refuse Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Employee." Includes an individual employed by an employer.

14 "Employer." Includes an individual, partnership,  
15 association, corporation or business trust, the Commonwealth, a  
16 political subdivision of the Commonwealth or an authority or  
17 instrumentality of the Commonwealth, or a person or group of  
18 persons acting, directly or indirectly, in the interest of an

1 employer in relation to an employee.

2 "Invasive medical test." As follows:

3 (1) A medical test or screening that:

4 (i) involves puncture or incision of the skin,  
5 insertion of an instrument or injection of foreign  
6 material into the body; or

7 (ii) requires the employee to provide samples of  
8 bodily fluids, bodily tissue or genetic material.

9 (2) The term shall not apply to medical testing or  
10 screening that is:

11 (i) required by Federal or State law;

12 (ii) intended to screen for the illegal use of  
13 drugs, except for the use of marijuana; or

14 (iii) is necessary for the employer to comply with  
15 workplace safety standards issued under the Occupational  
16 Safety and Health Act of 1970 (Public Law 91-596, 29  
17 U.S.C. § 651 et seq.).

18 "Prospective employee." An individual who has been offered  
19 employment by an employer, whether or not the offer is  
20 contingent on additional review or screening by the employer.

21 Section 3. Prohibited acts.

22 It shall be unlawful for an employer to discharge, refuse to  
23 hire, threaten or otherwise retaliate or discriminate against an  
24 employee or prospective employee regarding compensation or other  
25 terms or conditions of employment because the employee or  
26 prospective employee:

27 (1) refuses to participate in an invasive medical test  
28 or vaccination required by the employer; or

29 (2) informs other employees of the provisions of this  
30 act.

1 Section 4. Actions.

2 (a) Right to bring action.--An employee or prospective  
3 employee who suffers retaliation or discrimination in violation  
4 of section 3 may bring an action in a court of common pleas in  
5 accordance with established civil procedures of this  
6 Commonwealth.

7 (b) Time limitation.--An action under this section must be  
8 brought within three years from the date that the employee or  
9 prospective employee knew of the retaliation or discrimination.

10 Section 5. Relief.

11 If an employee or prospective employee prevails in an action  
12 commenced under section 4, the employee shall be entitled to the  
13 following relief:

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

15 (2) Restitution equal to three times the amount of the  
16 individual's wages and fringe benefits or prospective wages  
17 and fringe benefits calculated from the date of the  
18 retaliation or discrimination.

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

20 (4) Any other legal and equitable relief as the court  
21 deems appropriate.

22 Section 6. Effective date.

23 This act shall take effect in 60 days.