
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 968 Session of
2021

INTRODUCED BY MASTRIANO, GEBHARD, SCAVELLO, MARTIN, PHILLIPS-
HILL, J. WARD AND STEFANO, DECEMBER 21, 2021

REFERRED TO LABOR AND INDUSTRY, DECEMBER 21, 2021

AN ACT

1 Providing for exemptions for employees from vaccination mandates
2 related to COVID-19 and for fines.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the COVID-19
7 Vaccination Exemption Act.

8 Section 2. Definitions.

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

12 "COVID-19." The Coronavirus Disease 2019, an infectious
13 disease caused by severe acute respiratory syndrome coronavirus
14 2 that was first identified during December 2019 in Wuhan,
15 China.

16 "Employee." An individual from whose wages an employer is
17 required to withhold tax under section 316.1 of the act of March
18 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. The

1 term shall not include an individual employed by an agency or
2 department of the Federal Government or an entity employed by
3 the Federal Government on a contract basis.

4 "Employer." An individual, partnership, association,
5 corporation, governmental body, or unit or agency of a
6 governmental body, or any other entity that withholds or is
7 required to withhold tax under section 316.1 of the Tax Reform
8 Code of 1971 from wages paid to an employee. The term shall not
9 include an agency or department of the Federal Government or an
10 entity employed by the Federal Government on a contract basis.

11 Section 3. Exemption for employees from mandates related to
12 COVID-19.

13 (a) Exemption process required.--An employer that requires
14 or is mandated to require vaccination for COVID-19 or its
15 variants for the employer's employees shall provide a specific
16 exemption process that complies with this act.

17 (b) Requirements.--An exemption process under subsection (a)
18 shall include options that allow an employee to provide either
19 of the following in lieu of proof of COVID-19 vaccination:

20 (1) A molecular diagnostic test result every two weeks
21 showing that the employee does not test positive for the
22 COVID-19 virus.

23 (2) Proof of immunity for the virus that causes COVID-19
24 or its variants, including, without limitation, the presence
25 of antibodies. Proof of immunity must be certified every
26 three months by a licensed health care provider.

27 (c) Testing.--The following shall apply:

28 (1) If multiple test processes are available to an
29 employee under subsection (b), an employee may choose which
30 test to take.

1 (2) An employee may provide test results obtained
2 outside of the employer or a licensed health care provider if
3 the test meets the guidelines contained within the Policy for
4 Coronavirus Disease-2019 Tests During the Public Health
5 Emergency issued by the Food and Drug Administration, Center
6 for Devices and Radiological Health, in May 2020.

7 (d) Additional employer-provided exemption processes.--An
8 employer may provide additional exemptions beyond the exemption
9 processes required under this act.

10 Section 4. Termination prohibited.

11 An employer may not terminate an employee for failure to
12 comply with a COVID-19 vaccine mandate if the employee complies
13 with the requirements of an exemption process under this act.

14 Section 5. Costs.

15 An employer shall not be responsible for costs incurred under
16 section 3(b) or (c).

17 Section 6. Violation.

18 (a) Cause of action.--An employee shall have a cause of
19 action against the employee's employer if the employee's
20 employment is terminated or the employee is forced to resign due
21 to the employer's violation of this act. A prevailing employee
22 shall be entitled to the following:

23 (1) Injunctive or other equitable relief.

24 (2) Damages in an amount equal to the wages the employee
25 would have earned between the date of the employee's
26 termination and the date of disposition of the employee's
27 cause of action under this subsection.

28 (3) Reasonable attorney fees.

29 (b) Unemployment compensation.--Leaving work, whether
30 terminated or forced to resign, due to an employer's violation

1 of this act shall be deemed a cause of a necessitous and
2 compelling nature for the purposes of unemployment compensation
3 under section 402 of the act of December 5, 1936 (2nd Sp.Sess.,
4 1937 P.L.2897, No.1), known as the Unemployment Compensation
5 Law.

6 Section 7. Injury or illness.

7 Notwithstanding any provision of law to the contrary, an
8 employee may bring a claim against an employer in a court of
9 competent jurisdiction for actual and punitive damages for
10 injuries or illness caused by a vaccination or medicinal
11 treatment program intended to treat or prevent an infection from
12 COVID-19 if the employer required the employee to receive the
13 vaccine or vaccines or a medicinal treatment program as a
14 condition of the employee's employment.

15 Section 8. Expiration.

16 This act shall expire July 31, 2023.

17 Section 9. Effective date.

18 This act shall take effect immediately.