

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1740

By: Standridge

4
5
6 AS INTRODUCED

7 An Act relating to employer vaccination mandates;
8 requiring employers to allow employees to be exempted
9 from the employer's vaccination mandate; providing
10 exemptions employees may use; requiring health
11 exemptions to be verified by certain medical
12 personnel; providing for religious exemption;
13 allowing for medical evidence to be presented as
14 evidence to immunity; allowing for periodic testing
15 or protective equipment supplied by the employer;
16 allowing employee to file a complaint for
17 noncompliance; authorizing the Office of the Attorney
18 General to conduct investigations; providing for
19 terminated employees to file complaint to Attorney
20 General; promulgation of rules; amending 40 O.S.
21 2021, Section 192, which relates to violations;
22 providing fine structure for violations; providing
23 conditions for determination of fine; providing for
24 codification; and declaring an emergency.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 191.1 of Title 40, unless there
21 is created a duplication in numbering, reads as follows:

22 A. A private employer shall not impose a COVID-19 vaccination
23 mandate for any full-time, part-time, or contract employee without
24 providing individual exemptions that allow an employee to opt out of

1 such requirement on the basis of medical reasons including, but not
2 limited to, pregnancy or anticipated pregnancy, religions reasons,
3 COVID-19 immunity, periodic testing, and the use of employer-
4 provided personal protective equipment. For purposes of this
5 section, "COVID-19" means the novel coronavirus identified as SARS-
6 CoV-2, any disease caused by SARS-CoV-2, its viral fragments, a
7 virus mutating therefrom, and all conditions associated with the
8 disease which are caused by SARS-CoV-2, its viral fragments, or a
9 virus mutating therefrom. Employers shall use forms adopted by the
10 State Department of Health, or substantially similar forms, for
11 employees to submit exemption statements:

12 1. To claim an exemption based on medical reasons including,
13 but not limited to, pregnancy or anticipated pregnancy, the employee
14 shall present to the employer an exemption statement, dated and
15 signed by a licensed physician or a physician assistant who holds a
16 valid, active license as provided in Section 519.1 et seq. of Title
17 59 of the Oklahoma Statutes, or an advanced practice registered
18 nurse who holds a valid, active license as provided in Section 567.1
19 et seq. of Title 59 of the Oklahoma Statutes. The statement shall
20 provide that, in the professional opinion of the physician,
21 physician assistant, or advanced practice registered nurse, COVID-19
22 vaccination is not in the best medical interest of the employee.
23 The State Department of Health shall adopt rules specifying
24 circumstances that are considered an anticipated pregnancy

1 including, but not limited to, a maximum timeframe within which one
2 anticipates pregnancy for the purpose of claiming an exemption
3 pursuant to this paragraph;

4 2. To claim an exemption based on religious reasons, the
5 employee shall present to the employer an exemption statement
6 indicating that the employee declines COVID-19 vaccination because
7 of a sincerely held religious belief;

8 3. To claim an exemption based on COVID-19 immunity, the
9 employee shall present to the employer an exemption statement
10 demonstrating competent medical evidence that the employee has
11 immunity to COVID-19, documented by the results of a valid
12 laboratory test performed on the employee. The State Department of
13 Health shall adopt a standard for demonstrating competent medical
14 evidence of such immunity;

15 4. To claim an exemption based on periodic testing, the
16 employee shall present to the employer an exemption statement
17 indicating that the employee agrees to comply with regular testing
18 for the presence of COVID-19 at no cost to the employee; or

19 5. To claim an exemption based on employer-provided personal
20 protective equipment, the employee shall present to the employer an
21 exemption statement indicating that the employee agrees to comply
22 with the employer's reasonable written requirement to use employer-
23 provided personal protective equipment when in the presence of other
24 employees or other persons.

1 B. If an employer receives a completed exemption statement
2 authorized by subsection A of this section, the employer shall allow
3 the employee to opt out of the employer's COVID-19 vaccination
4 mandate.

5 C. An employee may file a complaint with the Office of the
6 Attorney General alleging that an exemption has not been offered or
7 has been improperly applied or denied in violation of this section.
8 If the Attorney General investigates and finds that the exemption
9 was not offered or was improperly applied or denied, it shall notify
10 the employer of its determination and allow the employer the
11 opportunity to cure the noncompliance.

12 D. The State Department of Health, the Office of the Attorney
13 General, and Department of Labor shall promulgate the rules
14 necessary to implement this section. Such rules shall be adopted
15 within fifteen (15) days after the effective date of this act. An
16 employer COVID-19 vaccination mandate is deemed invalid until the
17 State Department of Health adopts rules or fifteen (15) days after
18 the effective date of this act, whichever occurs first.

19 SECTION 2. AMENDATORY 40 O.S. 2021, Section 192, is
20 amended to read as follows:

21 Section 192. A. Each and every violation of any provision of
22 ~~Section 1 of this act~~ Section 191 of this title shall constitute a
23 misdemeanor, punishable by a fine in any amount not exceeding One
24 Hundred Dollars (\$100.00).

1 B. 1. An employer who fails to comply with Section 1 of this
2 act and terminates an employee based on a COVID-19 vaccination
3 mandate commits a violation of Section 1 of this act. Termination
4 includes the functional equivalent of termination. The terminated
5 employee may file a complaint with the Attorney General alleging
6 that an exemption has not been offered or has been improperly
7 applied or denied, resulting in the employee's termination. The
8 Attorney General shall conduct an investigation of the complaint
9 filed by a terminated employee. The investigation, at a minimum,
10 shall determine whether the employer has imposed a COVID-19
11 vaccination mandate, whether the employee has submitted a proper
12 exemption statement and complied with a specified condition, and
13 whether the employee was terminated as a result of the COVID-19
14 vaccination mandate. If the Attorney General finds that an employee
15 has been improperly terminated, the Attorney General shall impose an
16 administrative fine not to exceed:

- 17 a. Ten Thousand Dollars (\$10,000.00) per violation for an
18 employer with fewer than one hundred employees, and
19 b. Fifty Thousand Dollars (\$50,000.00) per violation for
20 an employer with more than one hundred employees.

21 However, the Attorney General may not impose a fine on an
22 employer that reinstates, prior to the issuance of a final order, a
23 terminated employee with back pay to the date that the complaint was
24 received by the Attorney General pursuant to this subsection.

1 2. In determining the amount of fine to be levied for a
2 violation, the Attorney General may consider any of the following
3 factors:

- 4 a. whether the employer knowingly and willfully violated
5 this section,
- 6 b. whether the employer has shown good faith in
7 attempting to comply with this section,
- 8 c. whether the employer has taken action to correct the
9 violation,
- 10 d. whether the employer has previously been assessed a
11 fine for violating this section, or
- 12 e. any other mitigating or aggravating factor that
13 fairness or due process requires.

14 3. Fines collected pursuant to this subsection shall be
15 deposited in the General Revenue Fund.

16 SECTION 3. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

20
21 58-2-2532 MR 1/20/2022 6:11:19 PM
22
23
24
25