

By: Hughes

S.B. No. 51

A BILL TO BE ENTITLED

AN ACT

1
2 relating to prohibited COVID-19 vaccine mandates and vaccination
3 status discrimination and to exemptions from certain vaccine
4 requirements.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 161.0085, Health and Safety Code, is
7 amended by adding Subsection (b-1) and amending Subsection (e) to
8 read as follows:

9 (b-1) A governmental entity in this state may not require an
10 individual to provide any documentation certifying the
11 individual's COVID-19 vaccination or post-transmission recovery on
12 entry to, to gain access to, or to receive service from the
13 governmental entity.

14 (e) This section may not be construed to:

15 (1) restrict a business or governmental entity from
16 implementing COVID-19 screening and infection control protocols in
17 accordance with state and federal law to protect public health; or

18 (2) interfere with an individual's right to access the
19 individual's personal health information under federal law.

20 SECTION 2. Subchapter A, Chapter 161, Health and Safety
21 Code, is amended by adding Section 161.0086 to read as follows:

22 Sec. 161.0086. PROHIBITION ON POLITICAL SUBDIVISIONS
23 MANDATING COVID-19 VACCINATIONS. (a) In this section, "COVID-19"
24 means the 2019 novel coronavirus disease.

1 (b) Notwithstanding any other law, including Chapter 81 of
2 this code and Chapter 418, Government Code, a political subdivision
3 of this state may not issue an order, adopt an ordinance, or
4 otherwise require an individual to be vaccinated against COVID-19.

5 SECTION 3. Section 38.001(b), Education Code, as amended by
6 Chapters 43 (H.B. 1098) and 94 (H.B. 1059), Acts of the 80th
7 Legislature, Regular Session, 2007, is reenacted and amended to
8 read as follows:

9 (b) Subject to Subsections (b-1), (b-2), and (c), the
10 executive commissioner of the Health and Human Services Commission
11 may modify or delete any of the immunizations in Subsection (a) or
12 may require immunizations against additional diseases as a
13 requirement for admission to any elementary or secondary school.

14 SECTION 4. Section 38.001, Education Code, is amended by
15 adding Subsection (b-2) to read as follows:

16 (b-2) An elementary or secondary school may not require a
17 student, as a condition of the student's admission to or continued
18 enrollment in the school, to be vaccinated against the 2019 novel
19 coronavirus disease (COVID-19).

20 SECTION 5. Subchapter 2, Chapter 51, Education Code, is
21 amended by adding Section 51.91921 to read as follows:

22 Sec. 51.91921. PROHIBITION ON PRIVATE OR INDEPENDENT
23 INSTITUTIONS OF HIGHER EDUCATION MANDATING COVID-19 VACCINATION
24 FOR STUDENTS. (a) In this section:

25 (1) "COVID-19" means the 2019 novel coronavirus
26 disease.

27 (2) "Private or independent institution of higher

1 education" has the meaning assigned by Section 61.003.

2 (b) A private or independent institution of higher
3 education may not require a student, as a condition of the student's
4 admission to or continued enrollment in the institution, to be
5 vaccinated against COVID-19.

6 SECTION 6. Section 51.933, Education Code, is amended by
7 amending Subsection (b) and adding Subsection (b-2) to read as
8 follows:

9 (b) Except as provided by Subsection (b-2), the ~~[The]~~
10 executive commissioner of the Health and Human Services Commission
11 may require immunizations against the diseases listed in Subsection
12 (a) and additional diseases for students at any institution of
13 higher education who are pursuing a course of study in a human or
14 animal health profession, and the executive commissioner may
15 require those immunizations for any students in times of an
16 emergency or epidemic in a county where the commissioner of state
17 health services has declared such an emergency or epidemic.

18 (b-2) An institution of higher education may not require a
19 student, as a condition of the student's admission to or continued
20 enrollment in the institution, to be vaccinated against the 2019
21 novel coronavirus disease (COVID-19).

22 SECTION 7. Chapter 21, Labor Code, is amended by adding
23 Subchapter H-1 to read as follows:

24 SUBCHAPTER H-1. DISCRIMINATION BASED ON EXEMPTION FROM REQUIRED
25 COVID-19 VACCINATION

26 Sec. 21.421. DEFINITION. In this subchapter, "COVID-19"
27 means the 2019 novel coronavirus disease.

1 Sec. 21.422. EXEMPTION FROM REQUIRED COVID-19 VACCINATION.

2 An employer, labor organization, or employment agency shall allow
3 an individual to claim an exemption from a required COVID-19
4 vaccination based on a medical condition or reasons of conscience,
5 including a religious belief.

6 Sec. 21.423. PROHIBITED DISCRIMINATION BASED ON EXEMPTION
7 FROM REQUIRED COVID-19 VACCINATION. (a) An employer commits an
8 unlawful employment practice if the employer fails or refuses to
9 hire, discharges, or otherwise discriminates against an individual
10 with respect to the compensation or the terms, conditions, or
11 privileges of employment because the individual claims an exemption
12 described by Section 21.422.

13 (b) A labor organization commits an unlawful employment
14 practice if the labor organization excludes or expels from
15 membership or otherwise discriminates against an individual
16 because the individual claims an exemption described by Section
17 21.422.

18 (c) An employment agency commits an unlawful employment
19 practice if the employment agency classifies or refers for
20 employment, fails or refuses to refer for employment, or otherwise
21 discriminates against an individual because the individual claims
22 an exemption described by Section 21.422.

23 Sec. 21.424. COVID-19 VACCINATION EXEMPTION AFFIDAVIT
24 FORM. (a) An employee claiming an exemption from a required
25 COVID-19 vaccination must complete and provide to the employee's
26 employer an affidavit on a form described by Subsection (e) stating
27 the reason for the exemption.

1 (b) The affidavit must be signed by the employee claiming
2 the exemption or, if the employee is a minor, the employee's parent,
3 managing conservator, or guardian, and the affidavit must be
4 notarized.

5 (c) On request of an employee, an employer shall provide to
6 the employee a blank copy of the vaccination exemption affidavit
7 form described by Subsection (e).

8 (d) On receipt of an employee's signed and notarized
9 affidavit claiming the exemption, the employer shall exempt the
10 employee from receiving a required COVID-19 vaccination.

11 (e) The commission shall develop and make available on the
12 commission's Internet website a blank affidavit form to be used by
13 an employee who claims an exemption from a required COVID-19
14 vaccination. The content of the affidavit form must be the same or
15 substantially similar to the affidavit form developed under Section
16 161.0041, Health and Safety Code, except that the form is not
17 required to contain a seal or other security device under
18 Subsection (d) of that section.

19 SECTION 8. Section 224.002(c), Health and Safety Code, is
20 amended to read as follows:

21 (c) The policy shall [~~may~~] include procedures for a covered
22 individual to be exempt from the required vaccines based on reasons
23 of conscience, including a religious belief.

24 SECTION 9. Subchapter H-1, Chapter 21, Labor Code, as added
25 by this Act, applies only to an unlawful employment practice that
26 occurs on or after the effective date of this Act.

27 SECTION 10. (a) The changes in law made by this Act to

1 Title 2, Education Code, apply beginning with the 2021-2022 school
2 year.

3 (b) The changes in law made by this Act to Title 3, Education
4 Code, apply beginning with the 2021-2022 academic year.

5 SECTION 11. This Act takes effect immediately if it
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary for immediate
9 effect, this Act takes effect on the 91st day after the last day of
10 the legislative session.