

1 AN ACT

2 relating to prohibiting a private employer from adopting or
3 enforcing certain COVID-19 vaccine mandates; authorizing an
4 administrative penalty.

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

6 SECTION 1. Subtitle D, Title 2, Health and Safety Code, is
7 amended by adding Chapter 81D to read as follows:

8 CHAPTER 81D. PROHIBITED CORONAVIRUS VACCINE MANDATES BY PRIVATE
9 EMPLOYER

10 Sec. 81D.001. DEFINITIONS. In this chapter:

11 (1) "Adverse action" means an action taken by an
12 employer that a reasonable person would consider was for the
13 purpose of punishing, alienating, or otherwise adversely affecting
14 an employee, contractor, applicant for employment, or applicant for
15 a contract position.

16 (2) "Commission" means the Texas Workforce
17 Commission.

18 (3) "Contractor" means a person who undertakes
19 specific work for an employer in exchange for a benefit without
20 submitting to the control of the employer over the manner, methods,
21 or details of the work.

22 (4) "COVID-19" means the 2019 novel coronavirus
23 disease and any variants of the disease.

24 (5) "Employer" means a person, other than a

1 governmental entity, who employs one or more employees.

2 Sec. 81D.002. EMPLOYER CORONAVIRUS VACCINE MANDATES
3 PROHIBITED. An employer may not adopt or enforce a mandate
4 requiring an employee, contractor, applicant for employment, or
5 applicant for a contract position to be vaccinated against COVID-19
6 as a condition of employment or a contract position.

7 Sec. 81D.003. PROHIBITED ADVERSE ACTION BY EMPLOYER. An
8 employer may not take an adverse action against an employee,
9 contractor, applicant for employment, or applicant for a contract
10 position for a refusal to be vaccinated against COVID-19.

11 Sec. 81D.0035. ADVERSE ACTION EXCEPTION FOR CERTAIN HEALTH
12 CARE FACILITIES, HEALTH CARE PROVIDERS, AND PHYSICIANS. (a) In
13 this section:

14 (1) "Health care facility" means a facility that is a
15 provider of services, as defined by Section 1861, Social Security
16 Act (42 U.S.C. Section 1395x).

17 (2) "Health care provider" and "physician" have the
18 meanings assigned by Section 74.001, Civil Practice and Remedies
19 Code.

20 (b) A health care facility, health care provider, or
21 physician may establish and enforce a reasonable policy that
22 includes requiring the use of protective medical equipment by an
23 individual who is an employee or contractor of the facility,
24 provider, or physician and who is not vaccinated against COVID-19
25 based on the level of risk the individual presents to patients from
26 the individual's routine and direct exposure to patients.

27 (c) Establishing or enforcing a policy described by

1 Subsection (b) is not considered an adverse action under this
2 chapter.

3 Sec. 81D.004. COMPLAINT; INVESTIGATION. (a) An employee,
4 contractor, applicant for employment, or applicant for a contract
5 position against whom an employer took an adverse action in
6 violation of this chapter may file a complaint with the commission
7 in the form and manner prescribed by commission rules.

8 (b) A complaint filed with the commission must include the
9 following information:

- 10 (1) the name of the complainant;
11 (2) the name of the employer; and
12 (3) the nature and description of any alleged adverse
13 action the employer took against the complainant.

14 (c) On receipt of a complaint under Subsection (a), the
15 commission shall conduct an investigation to determine whether the
16 employer took an adverse action against the complainant because of
17 the complainant's refusal to be vaccinated against COVID-19. For a
18 complaint against a health care facility, health care provider, or
19 physician, the commission shall consult with the department in
20 determining if a policy adopted under Section 81D.0035 was
21 reasonable.

22 Sec. 81D.005. INJUNCTIVE RELIEF. (a) On receipt of a
23 complaint filed under Section 81D.004, the commission may request
24 that the attorney general bring an action for injunctive relief
25 against the employer to prevent further violations of this chapter
26 by the employer. The action must be filed in a district court in:

- 27 (1) Travis County; or

1 (2) the county in which the alleged adverse action
2 occurred.

3 (b) In an injunction issued under Subsection (a), a court
4 may include reasonable requirements to prevent further violations
5 of this chapter.

6 Sec. 81D.006. ADMINISTRATIVE PENALTY. (a) The commission
7 shall impose on an employer who violates this chapter an
8 administrative penalty in an amount equal to \$50,000 for each
9 violation, unless the employer, as applicable:

10 (1) hires the applicant for employment or offers a
11 contract to the applicant for a contract position; or

12 (2) reinstates the employee or contractor and provides
13 the employee or contractor with back pay from the date the employer
14 took the adverse action and makes every reasonable effort to
15 reverse the effects of the adverse action, including reestablishing
16 employee benefits for which the employee or contractor otherwise
17 would have been eligible if the adverse action had not been taken.

18 (b) If, following an investigation under Section 81D.004,
19 the commission determines that the employer violated this chapter,
20 the commission may recover from the employer reasonable
21 investigative costs incurred by the commission in conducting the
22 investigation, regardless of whether the employer has taken an
23 action described by Subsection (a)(1) or (2).

24 Sec. 81D.007. RULES. The commission shall adopt rules as
25 necessary to implement and enforce this chapter.

26 SECTION 2. The change in law made by this Act applies only
27 to conduct or an adverse action that occurs on or after the

1 effective date of this Act.

2 SECTION 3. If any provision of this Act or its application
3 to any person or circumstance is held invalid, the invalidity does
4 not affect other provisions or applications of this Act that can be
5 given effect without the invalid provision or application, and to
6 this end the provisions of this Act are declared severable.

7 SECTION 4. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect on the 91st day after the last day of the
12 legislative session.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 7 passed the Senate on October 12, 2023, by the following vote: Yeas 19, Nays 12; and that the Senate concurred in House amendments on October 31, 2023, by the following vote: Yeas 17, Nays 11.

Secretary of the Senate

I hereby certify that S.B. No. 7 passed the House, with amendments, on October 26, 2023, by the following vote: Yeas 91, Nays 54, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor