

STATEMENT OF PURPOSE

RS29109 / #billnum

This legislation clarifies the protections provided in 39-9001, Idaho Code, also known as the Idaho Health Freedom Act, as it relates to COVID-19 vaccinations and employment in the State of Idaho. It also provides a basic understanding of reasonable accommodations that may need to be made for an employee who declines to get a COVID-19 vaccination.

FISCAL NOTE

There is no impact to the General Fund.

Contact:

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DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).



Sixty-sixth Legislature

LEGISLATURE OF THE STATE OF IDAHO



First Regular Session - 2021

IN THE _____

BILL NO. _____

BY _____

AN ACT

RELATING TO THE IDAHO HEALTH FREEDOM ACT; AMENDING SECTION 39-9002, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 90, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-9003A, IDAHO CODE, TO PROHIBIT THE TERMINATION OF EMPLOYMENT BASED ON HEALTH CARE SERVICES PREFERENCE; AMENDING SECTION 39-9004, IDAHO CODE, TO REVISE PROVISIONS REGARDING ENFORCEMENT; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-9002, Idaho Code, be, and the same is hereby amended to read as follows:

39-9002. DEFINITIONS. (1) "Employee" shall mean any individual employed by an employer, including individuals employed by the state or any of its political subdivisions.

(2) "Employer" shall include any person acting directly or indirectly in the interest of an employer in relation to an employee.

(3) "Health care services" shall mean any service, treatment, or provision of product for the care of physical or mental disease, illness, injury, defect or condition, or to otherwise maintain or improve physical or mental health, subject to all laws and rules regulating health service providers and products within the state of Idaho.

(24) "Mode of securing" shall mean to purchase directly or on credit or by trade, or to contract for third-party payment by insurance or other legal means authorized by the state of Idaho, or to apply for or accept employer or government sponsored health care benefits under such conditions as may legally be required as a condition of such benefits, or any combination of the same.

(35) "Penalty" shall mean any civil or criminal fine, tax, salary or wage withholding, surcharge, fee or any other imposed consequence, established by law or rule of the federal government of the United States of America or its subdivision or agency, that is used to punish or discourage the exercise of rights protected under this chapter.

SECTION 2. That Chapter 90, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-9003A, Idaho Code, and to read as follows:

39-9003A. TERMINATION OF EMPLOYMENT BASED ON HEALTH CARE SERVICES PREFERENCE PROHIBITED. (1) No employer shall discriminate against any employee who chooses not to receive the COVID-19 vaccine.

(2) An employee shall have the freedom to decline a COVID-19 vaccination pursuant to this chapter.

1 (3) No person or entity shall cause or attempt to cause an employer to
2 discriminate against any employee in violation of this chapter.

3 (4) No employer may discharge or discriminate against any employee by
4 reason of any action taken by such employee to invoke or assist in any manner
5 the enforcement of this chapter.

6 (5) An employer must provide reasonable accommodation to any employee
7 declining a COVID-19 vaccination unless doing so would cause an undue
8 hardship. Reasonable accommodation shall include but not be limited to
9 modifications or adjustments to the work environment or to the manner or
10 circumstances under which the position held or desired is customarily per-
11 formed that enable an employee to perform the essential functions of the job.
12 Reasonable accommodation may also include but not be limited to policies
13 requiring the use of personal protective equipment, COVID-19 testing, and
14 COVID-19 antibody testing, all of which may be the financial obligation of
15 an employee.

16 SECTION 3. That Section 39-9004, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 39-9004. ENFORCEMENT. (1) No public official, employee, or agent of
19 the state of Idaho or any of its political subdivisions, shall act to impose,
20 collect, enforce, or effectuate any penalty in the state of Idaho that vio-
21 lates the public policy set forth in section 39-9003(2), Idaho Code, or the
22 provisions of section 39-9003A, Idaho Code.

23 (2) The attorney general shall take such action as is provided in sec-
24 tion 67-1401(15), Idaho Code, in the defense or prosecution of rights pro-
25 tected under this act and the provisions of section 39-9003A, Idaho Code.

26 SECTION 4. SEVERABILITY. The provisions of this act are hereby declared
27 to be severable, and if any provision of this act or the application of such
28 provision to any person or circumstance is declared invalid for any reason,
29 such declaration shall not affect the validity of the remaining portions of
30 this act.

31 SECTION 5. An emergency existing therefor, which emergency is hereby
32 declared to exist, this act shall be in full force and effect on and after its
33 passage and approval.