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HOUSE BILL NO. 934

Offered January 12, 2022

Prefiled January 12, 2022

A *BILL to amend the Code of Virginia by adding a section numbered 40.1-27.5, relating to employer-mandated vaccinations for COVID-19; required exemptions; civil penalties.*

Patrons—LaRock, Campbell, R.R., Walker and Williams; Senator: Chase

Referred to Committee on Commerce and Energy

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 40.1-27.5 as follows:

§ 40.1-27.5. Employer-mandated vaccinations for COVID-19; required exemptions; discrimination prohibited; civil penalties.

A. As used in this section, "employer" has the same meaning as § 40.1-2 except that, notwithstanding the provisions of § 40.1-2.1, "employer" includes the Commonwealth or any of its agencies, institutions, or political subdivisions, or any public body.

B. Notwithstanding any other provision of law, no employer shall require its employees to receive a vaccine for the prevention of COVID-19 unless the employer provides individual exemptions that allow an employee to opt out from such requirement on the basis of (i) medical reasons, including pregnancy or anticipated pregnancy; (ii) religious reasons; (iii) immunity from COVID-19; (iv) periodic testing; or (v) the use of employer-provided personal protective equipment.

C. To claim an exemption for medical reasons, an employee shall submit to the employer documentation signed by a physician, nurse practitioner, or physician assistant stating that in the opinion of such health care provider, receiving the vaccine for the prevention of COVID-19 is not in the best interest of the employee.

D. To claim an exemption for religious reasons, an employee shall submit to the employer a signed statement to the employer that the employee declines to receive the vaccine based on a sincerely held religious belief.

E. To claim an exemption for immunity from COVID-19, an employee shall submit to the employer the results of the employee's valid laboratory test demonstrating that the employee has immunity to COVID-19.

F. To claim an exemption for periodic testing, the employee shall submit to the employer a signed statement that the employee agrees to comply with regular testing for the presence of COVID-19 at no cost to the employee.

G. To claim an exemption for the use of employer-provided personal protective equipment, the employee shall submit to the employer a signed statement that the employee agrees to comply with the employer's reasonable written requirement to use employer-provided personal protective equipment.

H. No employer shall discharge, discipline, or discriminate against an employee because the employee has claimed or has indicated to the employer an intent to claim an exemption under this section or who alleges a violation of this section.

I. An employee may file a complaint with the Commissioner alleging that an exemption was not offered or was improperly applied or denied in violation of this section. If the Commissioner finds that an exemption was not offered or was improperly applied or denied in violation of this section, then the Commissioner shall notify the employer and allow the employer 15 days from receipt of the notification to cure such violation.

J. Any employer that knowingly violates the provisions of subsection H or fails to cure a violation of this section pursuant to subsection I shall be subject to a civil penalty not to exceed \$10,000 for each violation by an employer with fewer than 100 employees or \$50,000 for each violation by an employer with 100 or more employees. The Commissioner shall notify any employer that the Commissioner alleges has violated any provision of this section by certified mail. Such notice shall contain a description of the alleged violation. Within 15 days of receipt of notice of the alleged violation, the employer may request an informal conference regarding such violation with the Commissioner. In determining the amount of any penalty to be imposed, the Commissioner shall consider the size of the business of the employer charged and the gravity of the violation. The decision of the Commissioner shall be final. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the State Treasurer. The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties that are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and pay a proposed penalty or a negotiated sum in lieu

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59 *of such penalty without admission of any civil liability arising from such alleged violation.*