

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Introduced**

### **House Bill 4625**

BY DELEGATE SUMMERS

[Introduced February 10, 2022; Referred to the  
Committee on Health and Human Resources]

1 A BILL to amend and reenact §16-3-4b of the Code of West Virginia, 1931, as amended, relating  
2 to COVID-19 immunization exemption requirements; and providing that the definition of  
3 “covered employer” does not include Medicare or Medicaid-certified facilities.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER  
INFECTIOUS DISEASES.**

**§16-3-4b. Required exemptions to compulsory immunization against COVID-19 as a  
condition of employment; effective date.**

1 (a) A covered employer, as defined in this section, that requires as a condition of continued  
2 employment or as a condition of hiring an individual for employment that such person receive a  
3 COVID-19 immunization or present documentation of immunization from COVID-19, shall exempt  
4 current or prospective employees from such immunization requirements upon the presentation of  
5 one of the following certifications:

6 (1) A certification presented to the covered employer, signed by a physician licensed  
7 pursuant to the provisions of §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code or an advanced  
8 practice registered nurse licensed pursuant to the provisions of §30-7-1 *et seq.* of this code who  
9 has conducted an in person examination of the employee or prospective employee, stating that  
10 the physical condition of the current or prospective employee is such that a COVID-19  
11 immunization is contraindicated, there exists a specific precaution to the mandated vaccine, or  
12 the current or prospective employee has developed COVID-19 antibodies from being exposed to  
13 the COVID-19 virus or suffered from and has recovered from the COVID-19 virus; or

14 (2) A notarized certification executed by the employee or prospective employee that is  
15 presented to the covered employer by the current or prospective employee that he or she has  
16 ~~religious~~ sincerely held beliefs that prevent the current or prospective employee from taking the  
17 COVID-19 immunization.

(b) A covered employer ~~shall~~ may not be permitted to penalize or discriminate against current or prospective employees for exercising exemption rights provided in this section by practices including, but not limited to, benefits decisions, hiring, firing, or withholding bonuses, pay raises, or promotions.

(c) As used in this section, the following terms shall have the following meaning:

~~(4) "Covered employer" shall mean~~ means:

~~(A) (1)~~ The State of West Virginia, including any department, division, agency, bureau, board, commission, office, or authority thereof, any political subdivision of the State of West Virginia including, but not limited to, any county, municipality, or school district; or

~~(B) (2)~~ A business entity, including without limitation any individual, firm, partnership, joint venture, association, corporation, company, estate, trust, business trust, receiver, syndicate, club, society, or other group or combination acting as a unit, engaged in any business activity in this state, including for-profit or not-for-profit activity, that has employees.

(3) "Covered employer" may not include any Medicare or Medicaid-certified facilities which are subject to enforceable federal regulations contrary to the requirements of this section.

~~(2) "COVID-19" shall mean~~ means the same as that term is defined in §55-19-3 of this code;

~~(3) "Immunization" shall mean~~ means any federally authorized immunization for COVID-19, whether fully approved or approved under an emergency use authorization.

(d) Any person or entity harmed by a violation of this section may seek injunctive relief in a court of competent jurisdiction.

(e) The provisions of this section shall become effective immediately.

(f) Pursuant to §2-2-10 of this code, if any provision of this section or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the section, and to this end the provisions of this section are declared to be severable.

NOTE: The purpose of this bill is to remove Medicare or Medicaid-certified facilities from COVID-19 immunization exemption requirements.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.