

WEST VIRGINIA LEGISLATURE
2021 THIRD EXTRAORDINARY SESSION

ENROLLED

House Bill 335

BY DELEGATE SUMMERS

(BY REQUEST OF THE EXECUTIVE)

[Passed October 20, 2021; in effect ninety days from passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §16-3-4b, relating to COVID-19 immunizations requirements for employment
3 in the public and private sectors; providing for exemptions; setting forth a process and an
4 exemption for medical contraindications; setting forth a process and an exemption for
5 those with religious beliefs that prevent an employee or prospective employee from taking
6 a COVID-19 vaccine; prohibiting discrimination for exercising an exemption; defining
7 terms; providing for injunctive relief in the event of a violation of the section; setting forth
8 an effective date; and providing for a severability clause.

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 beliefs that prevent the current or prospective employee from taking the COVID-19
17 immunization.

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

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

23 (1) "Covered employer" shall mean:

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

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

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

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

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

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

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day of, 2021.

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Governor