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## The 2021 Florida Statutes

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[Title XXIX](#)[PUBLIC HEALTH](#)[Chapter 381](#)[PUBLIC HEALTH: GENERAL PROVISIONS](#)[View Entire Chapter](#)**381.00317 Private employer COVID-19 vaccination mandates prohibited.—**

(1) A private employer may not impose a COVID-19 vaccination mandate for any full-time, part-time, or contract employee without providing individual exemptions that allow an employee to opt out of such requirement on the basis of medical reasons, including, but not limited to, pregnancy or anticipated pregnancy; religious reasons; COVID-19 immunity; periodic testing; and the use of employer-provided personal protective equipment. For purposes of this section, the term “COVID-19” means the novel coronavirus identified as SARS-CoV-2; any disease caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom; and all conditions associated with the disease which are caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom. Employers shall use forms adopted by the Department of Health, or substantially similar forms, for employees to submit exemption statements.

(a) To claim an exemption based on medical reasons, including, but not limited to, pregnancy or anticipated pregnancy, the employee must present to the employer an exemption statement, dated and signed by a physician or a physician assistant who holds a valid, active license under chapter 458 or chapter 459, or an advanced practice registered nurse who holds a valid, active license under chapter 464, who has examined the employee. The statement must provide that, in the professional opinion of the physician, physician assistant, or advanced practice registered nurse, COVID-19 vaccination is not in the best medical interest of the employee. The Department of Health shall adopt rules specifying circumstances that are considered an anticipated pregnancy, including, but not limited to, a maximum timeframe within which one anticipates pregnancy for the purpose of claiming an exemption under this paragraph.

(b) To claim an exemption based on religious reasons, the employee must present to the employer an exemption statement indicating that the employee declines COVID-19 vaccination because of a sincerely held religious belief.

(c) To claim an exemption based on COVID-19 immunity, the employee must present to the employer an exemption statement demonstrating competent medical evidence that the employee has immunity to COVID-19, documented by the results of a valid laboratory test performed on the employee. The Department of Health shall adopt a standard for demonstrating competent medical evidence of such immunity.

(d) To claim an exemption based on periodic testing, the employee must present to the employer an exemption statement indicating that the employee agrees to comply with regular testing for the presence of COVID-19 at no cost to the employee.

(e) To claim an exemption based on employer-provided personal protective equipment, the employee must present to the employer an exemption statement indicating that the employee agrees to comply with the employer’s reasonable written requirement to use employer-provided personal protective equipment when in the presence of other employees or other persons.

(2) If an employer receives a completed exemption statement authorized by subsection (1), the employer must allow the employee to opt out of the employer’s COVID-19 vaccination mandate.

(3) An employee may file a complaint with the Department of Legal Affairs alleging that an exemption has not been offered or has been improperly applied or denied in violation of this section. If the department investigates

and finds that the exemption was not offered or was improperly applied or denied, it must notify the employer of its determination and allow the employer the opportunity to cure the noncompliance.

(4)(a) An employer who fails to comply with this section and terminates an employee based on a COVID-19 vaccination mandate commits a violation of this section. Termination includes the functional equivalent of termination. The terminated employee may file a complaint with the Department of Legal Affairs alleging that an exemption has not been offered or has been improperly applied or denied, resulting in the employee's termination. The Department of Legal Affairs shall conduct an investigation of the complaint filed by a terminated employee. The investigation, at a minimum, must determine whether the employer has imposed a COVID-19 vaccination mandate, whether the employee has submitted a proper exemption statement and complied with any specified condition, and whether the employee was terminated as a result of the COVID-19 vaccination mandate. If the Attorney General finds that an employee has been improperly terminated, the Attorney General must impose an administrative fine not to exceed:

1. For an employer with fewer than 100 employees, \$10,000 per violation of this subsection.
2. For an employer with 100 or more employees, \$50,000 per violation of this subsection.

However, the Attorney General may not impose a fine on an employer that reinstates, prior to the issuance of a final order, a terminated employee with back pay to the date that the complaint was received by the department under this subsection.

(b) In determining the amount of fine to be levied for a violation, the Attorney General may consider any of the following factors:

1. Whether the employer knowingly and willfully violated this section.
2. Whether the employer has shown good faith in attempting to comply with this section.
3. Whether the employer has taken action to correct the violation.
4. Whether the employer has previously been assessed a fine for violating this section.
5. Any other mitigating or aggravating factor that fairness or due process requires.

(c) The decision of the Attorney General under this subsection constitutes agency action for purposes of chapter 120.

(d) Fines collected pursuant to this subsection must be deposited in the General Revenue Fund.

(5)(a) If an employer fails to comply with subsections (1) and (2) and terminates an employee based on the employee's noncompliance with a COVID-19 vaccination mandate, the terminated employee may be eligible for reemployment assistance under chapter 443 in addition to any other remedy available to the employee.

(b) If an employee is terminated for refusing to comply with a COVID-19 vaccination mandate and the employer did not offer and properly apply the exemptions required under this section:

1. Such refusal may not be deemed misconduct for the purpose of reemployment assistance under chapter 443.
2. Notwithstanding any provision of chapter 443, work is not deemed suitable and benefits may not be denied under s. [443.101](#) to the terminated employee for refusing to accept new work if the terminated employee is otherwise eligible and the position requires compliance with a COVID-19 vaccination mandate contrary to this section or s. [112.0441](#).

(6) Notwithstanding s. [120.74\(4\)](#) and (5), the Department of Health, the Department of Legal Affairs, and the Department of Economic Opportunity are authorized, and all conditions are deemed met, to adopt emergency rules pursuant to s. [120.54\(4\)](#) and this section. Such rulemaking must occur initially by filing emergency rules within 15 days after November 18, 2021. An employer COVID-19 vaccination mandate is deemed invalid until the Department of Health files its emergency rules or 15 days after November 18, 2021, whichever occurs first.

(a) The Department of Health shall adopt emergency rules to specify requirements for the frequency and methods of testing which may be used by employers to establish standards for competent medical evidence that the employee has immunity to COVID-19, to specify circumstances that are considered an anticipated pregnancy, and to create the following:

1. A form for use by a physician, a physician assistant, or an advanced practice registered nurse to document an exemption based on medical reasons, including, but not limited to, pregnancy or anticipated pregnancy.

2. A form for use by an employee to document an exemption based on religious reasons.
3. A form for use by an employee to document an exemption based on COVID-19 immunity. Such form must include the laboratory criteria for proof of immunity for the virus that causes COVID-19.
4. A form for use by an employee to document an exemption based on periodic testing. Such form must include the required frequency of testing and acceptable tests that may be used.
5. A form for use by an employee to document an exemption based on employer-provided personal protective equipment.
  - (b) The Department of Economic Opportunity shall adopt emergency rules to implement subsection (5).
  - (c) The Department of Legal Affairs shall adopt emergency rules to implement subsections (3) and (4), including prescribing the complaint and notification processes and specifying the functional equivalent of termination.

Notwithstanding s. [120.54\(4\)\(c\)](#), emergency rules adopted pursuant to this subsection remain in effect until replaced by rules adopted under regular rulemaking. The Department of Health, the Department of Legal Affairs, and the Department of Economic Opportunity shall begin rulemaking under s. [120.54\(2\)](#) and (3) immediately after filing the emergency rules.

(7) An employer may not impose a policy that prohibits an employee from choosing to receive a COVID-19 vaccination.

(8) This section expires June 1, 2023.

**History.**—ss. 1, 6, ch. 2021-272.