SB9

215650-6

By Senators Elliott, Givhan, Roberts, Barfoot, Gudger, Weaver, Shelnutt, Melson, Marsh, Chesteen, Butler, Sessions, Williams, Chambliss, Livingston, Allen, Waggoner, Orr, Scofield and Jones

RFD: Finance and Taxation General Fund

First Read: 28-OCT-21
ENROLLED, An Act,

Relating to vaccines; to require employers to allow employees to claim an exemption from the COVID-19 vaccination for medical reasons or sincerely held religious beliefs; to provide for submission of a standard form requesting the exemption; to provide standard language for the exemption form; to prohibit an employer from requiring a COVID-19 vaccine if an exemption form is completed and submitted; to authorize appeals to an administrative law judge for the Department of Labor for denials of exemptions; to require the Department of Labor to adopt an emergency rule; to provide an appeal of determinations by the administrative law judge; to generally provide for compensation of employees; and to provide for repeal of the act on a certain date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) For purposes of this section, the term "vaccination" means any injection intended to prevent the spread of COVID-19 or minimize the effects of COVID-19, irrespective of whether or not the injection meets the classical definition of vaccine.

(b) An employer may not require any employee to receive a vaccination as a condition of employment without
providing the employee the opportunity to be exempted from the vaccination mandate for religious or medical reasons in accordance with applicable law, rules, regulations, official guidance, and this section.

(c) An employer shall exempt vaccination as a condition of employment for any employee who has completed and submitted the exemption form described in subsection (e). An employer shall make this form readily available to all employees to whom this section applies, along with directions for submitting the form.

(d) When evaluating an employee's exemption request, the employer shall liberally construe the employee's eligibility for an exemption in favor of the employee, consistent with applicable law.

(e) The exemption form must be completed and signed by the employee and if applicable, signed by a health care provider. The form shall read as follows:

"Any individual in the State of Alabama who is subject to a requirement that he or she receive one or more COVID-19 vaccinations as a condition of employment may claim an exemption for medical reasons, because the vaccination conflicts with sincerely held religious beliefs, or both.

You may request either a medical or a religious exemption from the COVID-19 vaccination by completing this form and submitting the form to your employer."
In the event your employer denies this request, you have a right to file an appeal with the Department of Labor within 7 days. Your employer will provide you with information on how to file an appeal.

I am requesting exemption from the COVID-19 vaccine requirements for one of the following reasons: (check all that apply)

___ My health care provider has recommended to me that I refuse the COVID-19 vaccination based on my current health conditions and medications. (NOTE: You must include a licensed health care provider's signature on this form to claim this exemption.)

___ I have previously suffered a severe allergic reaction (e.g., anaphylaxis) related to vaccinations in the past.

___ I have previously suffered a severe allergic reaction related to receiving polyethylene glycol or products containing polyethylene glycol.

___ I have previously suffered a severe allergic reaction related to receiving polysorbate or products containing polysorbate.

___ I have received monoclonal antibodies or convalescent plasma as part of a COVID-19 treatment in the past 90 days.
___ I have a bleeding disorder or am taking a blood thinner.

___ I am severely immunocompromised such that receiving the COVID-19 vaccination creates a risk to my health.

___ I have been diagnosed with COVID-19 in the past 12 months.

___ Receiving the COVID-19 vaccination conflicts with my sincerely held religious beliefs, practices, or observances.

I hereby swear or affirm that the information in this request is true and accurate. I understand that providing false or misleading information is grounds for discipline, up to and including termination from employment.

____________________
Employee's Printed Name

____________________
Employee's Signature

____________________
Date

(Note: The following must be completed ONLY if claiming the first medical exemption listed above.)

Certification by a licensed health care provider as to the accuracy of information provided above:

____________________
Name of Health Care Provider

______________________

Signature of Health Care Provider

______________________

Date

(f) The submission of the completed form creates a presumption that the employee is entitled to the exemption.

(g)(1) Notwithstanding the Alabama Administrative Procedures Act, the Department of Labor, not more than 21 days after the effective date of this act, shall adopt an emergency rule establishing a process to permit an employee to file an appeal of an employee's denial of a request for an exemption with an administrative law judge or judges appointed by the Secretary of Labor. The rule shall require an aggrieved employee to file his or her appeal no later than the latter of 7 calendar days following the denial of a request for an exemption or 3 business days following the adoption of the rule. The rule shall also require the administrative law judge to issue a ruling within 30 calendar days of receiving the claim.

(2) An employee whose denial is upheld by an administrative law judge, within 14 calendar days of the ruling, may file an appeal with a court of competent jurisdiction.
(h)(1) An employer who has denied an employee's request may not terminate the employee on the basis of failing to receive a vaccination for a period of 7 calendar days after the denial was issued by the employer, or if an appeal was made, until the administrative law judge or the court issues a final ruling in the employer's favor.

(2) Notwithstanding subdivision (1), an employer must compensate an employee whose request has been denied, at the same rate of compensation the employee received prior to submitting an exemption form, for a period of 7 calendar days after the denial was issued by the employer, or if an appeal was made, until the administrative law judge issues a ruling in the employer's favor.

(i) Nothing in this section shall be construed to alter or amend the ability of an employer to terminate an employee for reasons other than the employee's COVID-19 vaccination status.

(j) This section does not create or imply a private cause of action for employees who are terminated after refusing to receive a vaccination mandated by their employer.

(k) Unless extended by an act of the Legislature, this section shall be repealed on May 1, 2023.

Section 2. Notwithstanding subdivision (h)(2) of Section 1, any employee whose request for exemption is denied and who, before the date the Department of Labor has adopted
rules pursuant to subdivision (g)(1) of Section 1, fails to receive a vaccination, must receive full compensation through the last date on which the employee has the opportunity to appeal the denial to an administrative law judge.

Section 3. The Legislature shall appropriate funds necessary to cover the cost of administrative law judges to implement Section 1.

Section 4. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.
President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB9
Senate 02-NOV-21
I hereby certify that the within Act originated in and passed the Senate, as amended.

Senate 04-NOV-21
I hereby certify that the within Act originated in and passed the Senate, as amended by Conference Committee Report.

Patrick Harris,
Secretary.

House of Representatives
Passed: 04-NOV-21, as amended

House of Representatives
Passed: 04-NOV-2021, as amended by Conference Committee Report.

By: Senator Elliott