

HOUSE BILL 1376

J1, K3

2lr2439

By: **Delegates Cox, Arikan, Boteler, Krebs, Mautz, McComas, Rose, Thiam, and Wivell**

Introduced and read first time: February 11, 2022

Assigned to: Health and Government Operations and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – COVID–19 Vaccinations – Exemption Process**
3 **(No Jabs for Jobs)**

4 FOR the purpose of requiring an employer to develop a process to allow an employee to
5 obtain an exemption from a COVID–19 vaccination requirement; prohibiting an
6 employer from terminating or forcing an employee to resign under certain
7 circumstances; providing that certain employees have a cause of action against an
8 employer and may pursue certain relief and damages; and generally relating to
9 employers, employees, and an exemption process from COVID–19 vaccination
10 requirements.

11 BY adding to
12 Article – Labor and Employment
13 Section 3–718
14 Annotated Code of Maryland
15 (2016 Replacement Volume and 2021 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That the Laws of Maryland read as follows:

18 **Article – Labor and Employment**

19 **3–718.**

20 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
21 **INDICATED.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2) “COVID-19” MEANS, INTERCHANGEABLY AND COLLECTIVELY, THE CORONAVIRUS KNOWN AS COVID-19 OR 2019-nCoV AND THE SARS-CoV-2 VIRUS.

(3) (I) “EMPLOYEE” MEANS AN INDIVIDUAL FROM WHOSE WAGES AN EMPLOYER IS REQUIRED TO WITHHOLD TAXES.

(II) “EMPLOYEE” DOES NOT INCLUDE AN INDIVIDUAL EMPLOYED BY AN AGENCY OR A DEPARTMENT OF THE FEDERAL GOVERNMENT OR BY AN ENTITY EMPLOYED BY THE FEDERAL GOVERNMENT ON A CONTRACTUAL BASIS.

(4) (I) “EMPLOYER” MEANS AN INDIVIDUAL, A PARTNERSHIP, AN ASSOCIATION, A CORPORATION, A GOVERNMENTAL BODY, A UNIT OR AN AGENCY OF A GOVERNMENTAL BODY, OR ANY OTHER ENTITY THAT WITHHOLDS OR IS REQUIRED TO WITHHOLD TAXES FROM WAGES PAID TO AN EMPLOYEE.

(II) “EMPLOYER” DOES NOT INCLUDE AN AGENCY OR A DEPARTMENT OF THE FEDERAL GOVERNMENT OR AN ENTITY EMPLOYED BY THE FEDERAL GOVERNMENT ON A CONTRACTUAL BASIS.

(B) IF AN EMPLOYER REQUIRES OR IS MANDATED TO REQUIRE AN EMPLOYEE TO PROVIDE PROOF OF VACCINATION AGAINST COVID-19 AS A CONDITION OF EMPLOYMENT, THE EMPLOYER SHALL ESTABLISH A PROCESS THAT ALLOWS FOR AN EMPLOYEE TO OBTAIN AN EXEMPTION FROM THE VACCINATION REQUIREMENT.

(C) THE EXEMPTION PROCESS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE THE OPTION FOR AN EMPLOYEE TO PROVIDE THE FOLLOWING INSTEAD OF PROOF OF COVID-19 VACCINATION:

(1) A MOLECULAR DIAGNOSTIC TEST RESULT EVERY 2 WEEKS INDICATING THAT THE EMPLOYEE DID NOT TEST POSITIVE FOR COVID-19; OR

(2) PROOF OF IMMUNITY FROM COVID-19, INCLUDING THE PRESENCE OF ANTIBODIES, THAT IS CERTIFIED EVERY 3 MONTHS BY A LICENSED HEALTH CARE PROVIDER.

(D) (1) IF MULTIPLE TESTING OPTIONS ARE AVAILABLE TO AN EMPLOYEE TO MEET THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION, THE EMPLOYEE MAY CHOOSE WHICH TEST TO TAKE.

1 **(2) AN EMPLOYEE MAY PROVIDE TEST RESULTS THAT ARE OBTAINED**
2 **OUTSIDE THE EMPLOYER OR A LICENSED HEALTH CARE PROVIDER TO MEET THE**
3 **REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION.**

4 **(E) AN EMPLOYER MAY AUTHORIZE ADDITIONAL EXEMPTIONS TO A**
5 **COVID-19 VACCINATION REQUIREMENT IN ADDITION TO THE EXEMPTION**
6 **PROCESS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.**

7 **(F) AN EMPLOYER MAY NOT TERMINATE AN EMPLOYEE FOR FAILURE TO**
8 **PROVIDE PROOF OF COVID-19 VACCINATION IF THE EMPLOYEE COMPLIES WITH**
9 **THE EXEMPTION PROCESS ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION.**

10 **(G) AN EMPLOYER IS NOT RESPONSIBLE FOR COSTS INCURRED BY AN**
11 **EMPLOYEE UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION.**

12 **(H) (1) IF AN EMPLOYEE IS TERMINATED OR FORCED TO RESIGN AS A**
13 **RESULT OF AN EMPLOYER'S VIOLATION OF THIS SECTION, THE EMPLOYEE HAS A**
14 **CAUSE OF ACTION AGAINST THE EMPLOYER AND MAY SEEK:**

15 **(I) INJUNCTIVE OR OTHER EQUITABLE RELIEF;**

16 **(II) DAMAGES IN AN AMOUNT EQUAL TO THE WAGES THE**
17 **EMPLOYEE WOULD HAVE EARNED FROM THE DATE OF THE EMPLOYEE'S**
18 **TERMINATION TO THE DATE OF THE DISPOSITION OF THE EMPLOYEE'S CAUSE OF**
19 **ACTION AGAINST THE EMPLOYER;**

20 **(III) DAMAGES FOR EMOTIONAL DISTRESS, MENTAL ANGUISH,**
21 **AND PAIN AND SUFFERING;**

22 **(IV) NONECONOMIC DAMAGES; AND**

23 **(V) REASONABLE ATTORNEY'S FEES.**

24 **(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN**
25 **EMPLOYEE MAY BRING A CAUSE OF ACTION AGAINST AN EMPLOYER IN A COURT OF**
26 **COMPETENT JURISDICTION FOR ACTUAL AND PUNITIVE DAMAGES FOR INJURIES OR**
27 **ILLNESS CAUSED BY A VACCINATION OR MEDICINAL TREATMENT PROGRAM**
28 **INTENDED TO TREAT OR PREVENT AN INFECTION FROM COVID-19 IF THE**
29 **EMPLOYER REQUIRED THE EMPLOYEE TO RECEIVE THE VACCINE OR MEDICINAL**
30 **TREATMENT PROGRAM AS A CONDITION OF THE EMPLOYEE'S EMPLOYMENT.**

31 **(I) THE TERMINATION OR FORCED RESIGNATION OF AN EMPLOYEE THAT IS**
32 **DUE TO THE EMPLOYER'S VIOLATION OF THIS SECTION SHALL BE CONSIDERED A**

1 CAUSE OF A NECESSITOUS AND COMPELLING NATURE FOR THE PURPOSES OF
2 UNEMPLOYMENT COMPENSATION.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
4 1, 2022.