



NEW FLORIDA BILL PASSED REGARDING COVID-19 VACCINE MANDATES

On November 18th, 2021 Florida passed House Bill 1B, prohibiting private employers from mandating COVID-19 vaccination without providing employees the ability to opt out of the mandate.

A private employer may not impose a COVID-19 vaccination mandate for any employee without allowing an employee to opt out for:

- medical reasons,
- pregnancy or anticipated pregnancy,
- religious reasons,
- COVID-19 immunity,
- periodic testing, and
- the use of employer-provided personal protective equipment.

To claim an exemption based on medical reasons, a professional opinion and an online exemption form must be completed.

For a religious exemption, a statement declining vaccination because of a sincerely held religious belief must be submitted to the employer.

Employers must be aware that an employee may file a complaint with the Department of Legal Affairs alleging that an exemption has not been offered or has been improperly denied. If the complaint is valid, the employer will be given the opportunity to cure the noncompliance. An employer who fails to comply and terminates an employee based on a COVID-19 vaccination mandate may be subject to administrative fines (per violation) of up to, \$10,000.00 for an employer with fewer than 100 employees, and \$50,000.00 for an employer with 100 or more employees. The law does not provide a private right of action for employees.

The following factors are considered in determining the amount of the fine imposed: whether the violation was knowing and willful, whether the employer has shown good faith in attempting to comply, whether the employer has taken action to correct the violation, and whether the employer has previously been assessed a fine for violating this section.

The new law further specifies that employees improperly terminated on the basis of COVID-19 vaccination mandates may be eligible for unemployment benefits. It also establishes that unemployment benefits may not be denied or discontinued based on a new job offer that would require COVID-19 vaccination.

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Should you have any questions regarding the above, please contact our Florida office at 754.228.3853 or info@garfunkelwild.com.

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