

1 AN ACT relating to vaccination exemption and declaring an emergency.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
4 READ AS FOLLOWS:

5 *For the purposes of Sections 1 to 4 of this Act:*

6 *(1) "COVID-19" means the novel coronavirus identified as SARS-CoV-2, or a virus*  
7 *mutating from SARS-CoV-2, or any variant of SARS-CoV-2, and medical*  
8 *conditions associated with the virus;*

9 *(2) "Medical practitioner" means:*

10 *(a) A physician or a physician's assistant licensed to practice in Kentucky by*  
11 *the Kentucky Board of Medical Licensure pursuant to KRS Chapter 311;*  
12 *and*

13 *(b) An advanced practice registered nurse licensed to practice in Kentucky by*  
14 *the Kentucky Board of Nursing pursuant to KRS Chapter 314; and*

15 *(3) "Retaliate against" means an employer or an employer's agent who takes adverse*  
16 *action against an employee including but not limited to:*

17 *(a) Withholding a promotion;*

18 *(b) Demoting that employee;*

19 *(c) Reducing that employee's pay; or*

20 *(d) Limiting that employee's number of work hours.*

21 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
22 READ AS FOLLOWS:

23 *(1) No employer shall establish a COVID-19 vaccination policy for an employee*  
24 *without providing individual exemptions that allow an employee to opt out of the*  
25 *COVID-19 vaccination policy based on one (1) or more of the following:*

26 *(a) Sincerely held religious beliefs;*

27 *(b) Conscientiously held beliefs;*

1        (c) Acute or chronic medical conditions, including but not limited to  
2                pregnancy; or

3        (d) Proof of COVID-19 immunity.

4        (2) No employer shall terminate or retaliate against an employee for noncompliance  
5                with the employer's COVID-19 vaccination policy if the employee submits to the  
6                employer:

7                (a) An exemption pursuant to Section 3 of this Act; or

8                (b) A signed, written statement pledging to voluntarily undertake weekly testing  
9                        for COVID-19 and use protective equipment authorized by the employer.

10        ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
11 READ AS FOLLOWS:

12        An employee shall submit to his or her employer the following for each exemption  
13        claimed pursuant to Section 2 of this Act:

14        (1) For an exemption based on sincerely held religious beliefs or conscientiously  
15                held beliefs, a signed, written statement swearing or affirming that his or her  
16                beliefs prohibit him or her from receiving the COVID-19 vaccination.

17        (2) For an exemption based on medical conditions, including pregnancy, a signed,  
18                written statement from a medical practitioner that examined the employee within  
19                the last calendar year, swearing or affirming that, in the professional opinion of  
20                the medical practitioner, vaccination against COVID-19 is not in the best medical  
21                interests of the employee.

22        (3) For an exemption based on COVID-19 immunity, the following documentation  
23                from a medical practitioner that examined the employee within the last calendar  
24                year:

25                (a) A written statement signed by the medical practitioner swearing or  
26                        affirming that the employee possesses antibodies providing immunity to  
27                        COVID-19; and

1        (b) A document or documents, signed by the medical practitioner,  
2                    demonstrating the results of a valid laboratory test performed on the  
3                    employee and explaining the presence of COVID-19 antibodies.

4        ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
5 READ AS FOLLOWS:

6        (1) Notwithstanding KRS 337.990 or any other provision of law to the contrary, an  
7                    employee may bring a claim against an employer in a court of competent  
8                    jurisdiction for injuries caused by the employer if that employer:

9                    (a) Prohibits an employee from submitting an exemption to the employer's  
10                    COVID-19 vaccination policy; or

11                    (b) Terminates or retaliates against an employee for noncompliance with the  
12                    employer's COVID-19 vaccination policy after the employee submits an  
13                    exemption pursuant to Section 3 of this Act.

14        (2) In an action brought under this section, the court may award actual,  
15                    compensatory, and punitive damages. An award for punitive damages shall be  
16                    not less than ten thousand dollars (\$10,000).

17        (3) The provisions of KRS 39A.275 shall not apply to an employer found liable under  
18                    this section.

19        ➔Section 5. Whereas it is vital that the General Assembly protect employee rights  
20 in the workplace, an emergency is declared to exist, and this Act takes effect upon its  
21 passage and approval by the Governor or upon its otherwise becoming a law.