

SENATE FILE NO. SF1009

COVID-19 response-2.

Sponsored by: Senator(s) Kinskey and Representative(s)  
Barlow

A BILL

for

1 AN ACT relating to the COVID-19 public health emergency;  
2 providing limitations on requiring COVID 19 vaccinations as  
3 specified; specifying liability for employers whose  
4 employees separate or are terminated because of a COVID-19  
5 vaccination requirement; establishing a cause of action for  
6 damages as specified; appropriating funds for litigation  
7 purposes as specified; providing definitions; amending  
8 exemptions for immunizations and treatments as specified;  
9 amending the worker's compensation program to provide a  
10 presumption that an injury caused by a mandated or required  
11 COVID 19 vaccination is compensable as specified; making  
12 conforming amendments; and providing for an effective date.

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14 *Be It Enacted by the Legislature of the State of Wyoming:*

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1           **Section 1.** W.S. 27-1-117 and 35-4-140 are created to  
2 read:

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4           **27-1-117. COVID-19 vaccination separation and**  
5 **termination; remedies.**

6  
7           (a) As used in this section:

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9                 (i) "COVID-19" means as defined by W.S.  
10 1-1-141(a)(ii);

11  
12                 (ii) "COVID-19 vaccination" means as defined by  
13 W.S. 35-4-140(a)(ii).

14  
15           (b) Except as provided in subsection (d) of this  
16 section, an employer shall provide severance pay to any  
17 person entitled to severance pay as specified in subsection  
18 (c) of this section if the person is unemployed because:

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20                 (i) The person voluntarily terminates his  
21 employment with the employer because the employer has  
22 imposed a COVID-19 vaccination requirement or mandate and  
23 the employee declines to receive a COVID-19 vaccination or

1 will not otherwise confirm that he has received a COVID-19  
2 vaccination; or

3

4 (ii) The person is terminated from employment  
5 because the employer has imposed a COVID-19 vaccination  
6 requirement or mandate and the employee declines to receive  
7 a COVID-19 vaccination or will not otherwise confirm that  
8 he has received a COVID-19 vaccination.

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10 (c) Except as provided in subsection (d) of this  
11 section, an employer shall pay to any person who is  
12 unemployed because of a reason specified in subsection (b)  
13 of this section severance pay equal to fifty percent (50%)  
14 of the amount of wages and benefits that the person would  
15 have received if the person had worked for the immediately  
16 succeeding thirteen (13) weeks after the person's  
17 unemployment began.

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19 (d) No person shall be entitled to severance pay  
20 under subsection (c) of this section if:

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1           (i) The employer had established a COVID-19  
2 vaccination requirement that took effect before October 31,  
3 2021;

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5           (ii) The person voluntarily terminated his  
6 employment or was involuntarily terminated from employment  
7 for failing to comply with a COVID-19 vaccination  
8 requirement that the employer established in accordance  
9 with W.S. 35-4-140(b); or

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11           (iii) The person began employment and was  
12 subject to a previously established COVID-19 vaccination  
13 requirement that complied with paragraphs (i) or (ii) of  
14 this subsection.

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16           (e) Nothing in this section shall be construed to  
17 limit or preclude an employee who is unemployed under one  
18 (1) of the circumstances described in subsection (b) of  
19 this section from receiving any other benefit to which the  
20 employee is entitled to under law.

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22           **35-4-140. COVID-19 vaccination requirements;**  
23 **limitations; exceptions; notice.**

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2 (a) As used in this section:

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4 (i) "COVID-19" means as defined by W.S.  
5 1-1-141(a)(ii);

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7 (ii) "COVID-19 vaccination" means any vaccine  
8 that is marketed to prevent COVID-19 or any vaccine that is  
9 marketed to diminish or decrease the symptoms of COVID-19;

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11 (iii) "Employer" means any person or  
12 organization that has in its employ one (1) or more persons  
13 performing services for it in employment;

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15 (iv) "Public accommodation" means a private  
16 entity that owns, leases, leases to or operates a place of  
17 public accommodations, as that term is defined in 28 C.F.R.  
18 § 36.104 as of October 1, 2021;

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20 (v) "Public entity" means as defined by W.S.  
21 16-6-101(a)(viii);

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1           (vi) "Reasonable alternative measures" shall  
2 include, but are not limited to:

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4           (A) Reassignment of work duties or work  
5 stations which limits potential exposure from the employee  
6 to other employees, patients or the public. A reassignment  
7 of work duties or work stations shall only be authorized if  
8 the reassignment does not impose an undue burden on the  
9 health care employer;

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11           (B) COVID-19 testing of the employee in a  
12 form and frequency that is consistent with current public  
13 health guidelines.

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15           (b) No person shall require another person to receive  
16 a COVID-19 vaccination unless:

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18           (i) The person requiring the vaccine has adopted  
19 guidelines and a process to accept religious and medical  
20 exemptions to the vaccination requirement in accordance  
21 with W.S. 27-11-113(b);

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1           (ii) All persons subject to a COVID-19  
2 vaccination requirement have been provided with notice not  
3 less than ninety (90) days before the vaccination  
4 requirement takes effect. Notice under this paragraph shall  
5 include information regarding the reasonable alternative  
6 measures that are available and the guidelines and process  
7 for persons to submit exemptions for not receiving a  
8 COVID-19 vaccination or for not disclosing the employee's  
9 COVID-19 vaccination status; and

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11           (iii) If the person requiring the vaccine is an  
12 employer, the employer provides reasonable alternative  
13 measures that:

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15           (A) An employee can opt into in lieu of the  
16 COVID-19 vaccination requirement or a requirement to  
17 disclose the employee's COVID-19 vaccination status;

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19           (B) Are protective of the employer's  
20 interests;

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22           (C) Allow the employee continued employment  
23 with the employer; and

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2 (D) Are consistent with any measures  
3 required by the employer of persons who submitted  
4 exemptions to an employer in accordance with paragraph (i)  
5 of this subsection.

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7 (c) The provisions of subsection (b) of this section  
8 shall apply to all COVID-19 vaccination requirements  
9 imposed on and after November 1, 2021. All persons who wish  
10 to continue a COVID-19 vaccination requirement imposed  
11 before November 1, 2021 shall, as soon as practicable,  
12 establish guidelines for the submission of exemptions under  
13 paragraph (b)(i) of this section, provide notice under  
14 paragraph (b)(ii) of this section, and, for employers,  
15 provide reasonable alternative measures under paragraph  
16 (b)(iii) of this section.

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18 (d) Any employer or public accommodation shall offer  
19 reasonable alternatives related to the employment of  
20 persons or the delivery and receipt of goods or services,  
21 including the provisions of reasonable alternative  
22 measures, to any person who has not received a COVID-19



1 vaccination or who cannot otherwise confirm that the person  
2 has received a COVID-19 vaccination.

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4 (e) No public entity shall require a person to  
5 receive or show proof of a COVID-19 vaccination in order  
6 for the person to receive or qualify for any public benefit  
7 to which the person is entitled.

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9 **Section 2.** W.S. 27-11-113 and 27-14-102(a)(xi)(intro)  
10 are amended to read:

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12 **27-11-113. Physical examination of employees;**  
13 **religious exemption; COVID-19 vaccination exemptions;**  
14 **damages.**

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16 (a) Any employer may require an employee to submit to  
17 a physical examination before employment or at any time  
18 during employment, and shall provide for a physical  
19 examination, as deemed necessary, due to exposure or  
20 contact with hazards or environmental conditions which may  
21 be detrimental to the health of the employee. Nothing in  
22 this or any other provision of this act shall be deemed to  
23 authorize or require medical examination, immunization or

1 treatment for those who object thereto on medical or  
2 religious grounds, except where such is necessary for the  
3 protection of the health or safety of others subject to the  
4 provisions of subsection (b) of this section. The results  
5 of such examinations shall be furnished only to the  
6 department, the employer and, upon request, to the employee  
7 and the employee's physician. The employer shall pay for  
8 such examination.

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10 (b) If any employer requires vaccination for COVID-19  
11 or enforces a COVID-19 vaccination requirement imposed by  
12 the federal government or any other entity, the employer  
13 shall grant an exemption as provided in this subsection.  
14 Exemptions shall be granted by the employer upon submission  
15 of written evidence of an objection on medical or religious  
16 grounds.

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18 (c) As used in this section, "COVID-19" means as  
19 defined by W.S. 1-1-141(a)(ii).

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21 **27-14-102. Definitions.**

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23 (a) As used in this act:

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(xi) "Injury" means any harmful change in the human organism other than normal aging and includes damage to or loss of any artificial replacement and death, arising out of and in the course of employment while at work in or about the premises occupied, used or controlled by the employer and incurred while at work in places where the employer's business requires an employee's presence and which subjects the employee to extrahazardous duties incident to the business. For the period beginning October 31, 2021 through March 31, 2022, if any employee, suffers an injury caused by a COVID-19 vaccination that the employer required or mandated on or after October 31, 2021 as a condition of employment, it shall be presumed that the injury arises out of and in the course of employment.

"Injury" does not include:

**Section 3.** There is appropriated one million dollars (\$1,000,000.00) from the general fund to the office of the governor for purposes of commencing, prosecuting or defending lawsuits related to COVID-19 vaccination requirements. This appropriation shall be for the period beginning with the effective date of this act and ending

1 June 30, 2024. This appropriation shall not be transferred  
2 or expended for any other purpose and any unexpended,  
3 unobligated funds remaining from this appropriation shall  
4 revert as provided by law on June 30, 2024.

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6 **Section 4.** This act is effective immediately upon  
7 completion of all acts necessary for a bill to become law  
8 as provided by Article 4, Section 8 of the Wyoming  
9 Constitution.

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(END)