

Committee: SB 211 A Conference Committee

Tuesday, March 08, 2022 3:00 PM

Roll Call

Present: Rep. Hansen, Rep. Odenbach, Rep. Gosch, Sen. Steinhauer, Sen. Tobin, and Sen. Cammack

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Cammack

SB 211 : protect an individual's conscience from entities requiring the COVID-19 vaccine.

Others: Nathan Sanderson, South Dakota Retailers Association, Pierre
Tim Rave, South Dakota Association of Healthcare Organizations, Sioux Falls
David Owen, South Dakota Chamber of Commerce & Industry, Pierre
Representative Rhonda Milstead, District 9

MOTION: DO PASS SB 211

Moved by: Hansen
Second by: Gosch
Action: Failed by roll call vote (3-3-0-0)

Voting Yes: Hansen, Odenbach, and Gosch

Voting No: Steinhauer, Tobin, and Cammack

MOTION: AMEND SB 211

211J

On page 1, line 1, of the House Engrossed bill, delete "protect an individual's conscience from entities requiring the COVID-19 vaccine" and insert "provide statutory COVID-19 vaccine exemptions and to declare an emergency"

On the House Engrossed bill, delete everything after the enacting clause and insert:

"

Section 1. That chapter 60-2 be amended with a NEW SECTION:

An employer that requires an employee to receive immunization against COVID-19, as defined by § 21-68-1, as a condition of their employment, must allow an employee to claim, in writing, any of the following exemptions:

(1) For a medical exemption, if the employee has a medical condition which advises against a COVID-19 immunization according to a certificate that is signed by a South Dakota medical professional:

(a) Licensed pursuant to chapter 36-4, 36-4A, or 36-9A;

(b) Authorized to diagnose medical conditions;

(c) Who has examined the employee, and

(d) Who states that in the professional opinion of the medical professional, the employee has a medical contraindication or compelling medical reason that advises against the COVID-19 immunization;

(2) For a religious exemption, if the employee submits a signed statement on a form to the employer stating:

- I, [insert person's full name], dissent and object to receiving a COVID-19 vaccine on religious grounds, which includes moral or ethical beliefs or principles but not social, political, or economic philosophies or mere preference; or
- (3) For a natural immunity exemption, if the employee submits a signed statement to the employer stating that the employee has natural immunity to COVID-19 due to prior infection.

Any employer that conditions employment on COVID-19 immunization must notify applicants and employees of the exemptions provided in this section. Nothing in this section requires a medical professional to provide a medical exemption certificate or provide an order for an antibody test.

Section 2. That chapter 60-2 be amended with a NEW SECTION:

This Act does not:

- (1) Apply to the South Dakota National Guard;
- (2) Prevent the South Dakota National Guard from requiring a COVID-19 immunization in compliance with a valid and lawful command order that applies to a servicemember who may be subject to federal activation;
- (3) Apply to a health care provider, facility, or supplier if compliance would result in a violation of regulations issued by the Centers for Medicare and Medicaid Services or the Center for Disease Control and Prevention;
- (4) Require any employer to adopt a COVID-19 immunization policy; or
- (5) Prohibit employers from adopting other exemptions or expanding the scope of the exemptions in section 1 of this Act.

Section 3. That chapter 60-2 be amended with a NEW SECTION:

An employee who suffers an adverse employment action by a violation of this Act may apply for injunctive and declaratory relief, without bond, to restrain their employer from violating this Act. This relief is not exclusive of any other relief an employee may seek pursuant to other law.

Section 4. Whereas, this Act is necessary for the immediate preservation of the public peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval."

Moved by: Hansen
 Second by: Gosch
 Action: Failed by roll call vote (3-3-0-0)

Voting Yes: Hansen, Odenbach, and Gosch

Voting No: Steinhauer, Tobin, and Cammack

MOTION: AMEND SB 211

211K

On the House Engrossed bill, delete the previously adopted amendment(s), thus restoring the bill to the Introduced version.

Moved by: Hansen
 Second by: Gosch
 Action: Failed by roll call vote (3-3-0-0)

Voting Yes: Steinhauer, Tobin, and Cammack

Voting No: Hansen, Odenbach, and Gosch

MOTION: DO NOT CONCUR IN AMENDMENTS TO SB 211 AND DO NOT APPOINT A NEW COMMITTEE

Moved by: Gosch
Second by: Hansen
Action: Prevailed by Majority Members Elect (6-0-0-0)

Voting Yes: Hansen, Odenbach, Gosch, Steinhauer, Tobin, and Cammack

MOTION: ADJOURN

Moved by: Steinhauer
Second by: Gosch
Action: Prevailed by voice vote

Peggy Laurenz, Committee Secretary

/s/ GARY L. CAMMACK
Gary L. Cammack, Chair

/s/ SPENCER GOSCH
Spencer Gosch, Chair