

2022 South Dakota Legislature

Senate Bill 211**AMENDMENT 211J FOR THE HOUSE ENGROSSED BILL**

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

1 **An Act to ~~protect an individual's conscience from entities requiring the COVID-19~~**
2 **~~vaccine provide statutory COVID-19 vaccine exemptions and to declare an~~**
3 **~~emergency.~~**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

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

6 An employer that requires an employee to receive immunization against COVID-
7 19, as defined by § 21-68-1, as a condition of their employment, must allow an employee
8 to claim, in writing, any of the following exemptions:

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

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

13 (b) Authorized to diagnose medical conditions;

14 (c) Who has examined the employee, and

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

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

20 I, [insert person's full name], dissent and object to receiving a COVID-19 vaccine
21 on religious grounds, which includes moral or ethical beliefs or principles but not
22 social, political, or economic philosophies or mere preference; or

1 (3) For a natural immunity exemption, if the employee submits a signed statement to
2 the employer stating that the employee has natural immunity to COVID-19 due to
3 prior infection.

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

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

9 This Act does not:

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

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

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

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