

2023 South Dakota Legislature

House Bill 1235**AMENDMENT 1235B
FOR THE INTRODUCED BILL**

1 **An Act to provide a conscience exemption from a COVID-19 vaccination.**

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

3 **Section 1. That a NEW SECTION be added to title 34:**

4 For the purpose of this Act, the term, conscience, means a person's inner conviction
5 regarding that which is right or wrong in the person's conduct.

6 **Section 2. That a NEW SECTION be added to title 34:**

7 A person has the right to be exempt from any COVID-19 vaccination mandate,
8 requirement, obligation, or demand on the basis that receiving a COVID-19 vaccination
9 violates the person's conscience. A person may exercise the right to be exempt under this
10 Act orally or in writing.

11 **Section 3. That a NEW SECTION be added to title 34:**

12 No person may be subjected to any disciplinary action as a result of the person's
13 decision to decline receipt of a COVID-19 vaccination on the basis of conscience.

14 For purposes of this section, the term, disciplinary action, means:

15 (1) Termination, demotion, or any loss of employment status; or

16 (2) Any loss of student status, including status in a particular course or program of
17 study.

18 **Section 4. That a NEW SECTION be added to title 34:**

19 Before any person attempts to mandate or require another person to receive a
20 COVID-19 vaccination, or attempts to condition another person's job or student status
21 upon the receipt of a COVID-19 vaccination, that person must inform the other person of
22 the right to the conscience exemption under this Act.

1 **Section 5. That a NEW SECTION be added to title 34:**

2 A civil action for damages or injunctive relief, or both, may be brought by any
3 person for any violation of this Act. A person, who is aggrieved by any violation of this Act
4 and commences a civil action, is entitled, upon the finding of a violation, to recover
5 threefold the actual damages sustained, along with the costs of the action and reasonable
6 attorney's fees.

7 **Section 6. That a NEW SECTION be added to title 34:**

8 ~~A health care facility, as defined in chapter 34-12, is exempt from this Act if~~
9 ~~compliance would result in a violation of regulations~~ A person's right to decline the receipt
10 of a COVID-19 vaccination on the basis of conscience, as set forth in this Act, is not
11 applicable if, by complying with this Act, the public or private entity requiring or mandating
12 the vaccination would be:

- 13 (1) Violating a specific regulation that is promulgated by the Centers for Medicare and
14 Medicaid Services or the Centers for Disease Control and Prevention; or
15 (2) Violating a specific provision of a guidance document issued by the Centers for
16 Medicare and Medicaid Services or by the Centers for Disease Control and
17 Prevention.

18 **Section 7. That a NEW SECTION be added to title 34:**

19 This Act does not apply to the South Dakota National Guard or prevent the South
20 Dakota National Guard from requiring a COVID-19 vaccination, in compliance with a valid
21 and lawful command order that applies to a servicemember who is subject to federal
22 activation.