

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE D. PREVENTION, CONTROL, AND REPORTS OF DISEASES; PUBLIC  
HEALTH DISASTERS AND EMERGENCIES

CHAPTER 81D. PROHIBITED CORONAVIRUS VACCINE MANDATES BY PRIVATE  
EMPLOYER

Sec. 81D.001. DEFINITIONS. In this chapter:

(1) "Adverse action" means an action taken by an employer that a reasonable person would consider was for the purpose of punishing, alienating, or otherwise adversely affecting an employee, contractor, applicant for employment, or applicant for a contract position.

(2) "Commission" means the Texas Workforce Commission.

(3) "Contractor" means a person who undertakes specific work for an employer in exchange for a benefit without submitting to the control of the employer over the manner, methods, or details of the work.

(4) "COVID-19" means the 2019 novel coronavirus disease and any variants of the disease.

(5) "Employer" means a person, other than a governmental entity, who employs one or more employees.

Added by Acts 2023, 88th Leg., 3rd C.S., Ch. 1 (S.B. 7), Sec. 1, eff. February 6, 2024.

Sec. 81D.002. EMPLOYER CORONAVIRUS VACCINE MANDATES PROHIBITED. An employer may not adopt or enforce a mandate requiring an employee, contractor, applicant for employment, or applicant for a contract position to be vaccinated against COVID-19 as a condition of employment or a contract position.

Added by Acts 2023, 88th Leg., 3rd C.S., Ch. 1 (S.B. 7), Sec. 1, eff. February 6, 2024.

Sec. 81D.003. PROHIBITED ADVERSE ACTION BY EMPLOYER. An employer may not take an adverse action against an employee, contractor, applicant for employment, or applicant for a contract

position for a refusal to be vaccinated against COVID-19.

Added by Acts 2023, 88th Leg., 3rd C.S., Ch. 1 (S.B. 7), Sec. 1, eff. February 6, 2024.

Sec. 81D.0035. ADVERSE ACTION EXCEPTION FOR CERTAIN HEALTH CARE FACILITIES, HEALTH CARE PROVIDERS, AND PHYSICIANS. (a) In this section:

(1) "Health care facility" means a facility that is a provider of services, as defined by Section 1861, Social Security Act (42 U.S.C. Section 1395x).

(2) "Health care provider" and "physician" have the meanings assigned by Section 74.001, Civil Practice and Remedies Code.

(b) A health care facility, health care provider, or physician may establish and enforce a reasonable policy that includes requiring the use of protective medical equipment by an individual who is an employee or contractor of the facility, provider, or physician and who is not vaccinated against COVID-19 based on the level of risk the individual presents to patients from the individual's routine and direct exposure to patients.

(c) Establishing or enforcing a policy described by Subsection (b) is not considered an adverse action under this chapter.

Added by Acts 2023, 88th Leg., 3rd C.S., Ch. 1 (S.B. 7), Sec. 1, eff. February 6, 2024.

Sec. 81D.004. COMPLAINT; INVESTIGATION. (a) An employee, contractor, applicant for employment, or applicant for a contract position against whom an employer took an adverse action in violation of this chapter may file a complaint with the commission in the form and manner prescribed by commission rules.

(b) A complaint filed with the commission must include the following information:

- (1) the name of the complainant;
- (2) the name of the employer; and
- (3) the nature and description of any alleged adverse action the employer took against the complainant.

(c) On receipt of a complaint under Subsection (a), the commission shall conduct an investigation to determine whether the employer took an adverse action against the complainant because of the complainant's refusal to be vaccinated against COVID-19. For a complaint against a health care facility, health care provider, or physician, the commission shall consult with the department in determining if a policy adopted under Section 81D.0035 was reasonable.

Added by Acts 2023, 88th Leg., 3rd C.S., Ch. 1 (S.B. 7), Sec. 1, eff. February 6, 2024.

Sec. 81D.005. INJUNCTIVE RELIEF. (a) On receipt of a complaint filed under Section 81D.004, the commission may request that the attorney general bring an action for injunctive relief against the employer to prevent further violations of this chapter by the employer. The action must be filed in a district court in:

- (1) Travis County; or
- (2) the county in which the alleged adverse action occurred.

(b) In an injunction issued under Subsection (a), a court may include reasonable requirements to prevent further violations of this chapter.

Added by Acts 2023, 88th Leg., 3rd C.S., Ch. 1 (S.B. 7), Sec. 1, eff. February 6, 2024.

Sec. 81D.006. ADMINISTRATIVE PENALTY. (a) The commission shall impose on an employer who violates this chapter an administrative penalty in an amount equal to \$50,000 for each violation, unless the employer, as applicable:

- (1) hires the applicant for employment or offers a contract to the applicant for a contract position; or
- (2) reinstates the employee or contractor and provides the employee or contractor with back pay from the date the employer took the adverse action and makes every reasonable effort to reverse the effects of the adverse action, including reestablishing employee benefits for which the employee or contractor otherwise would have been eligible if the adverse action had not been taken.

(b) If, following an investigation under Section 81D.004, the commission determines that the employer violated this chapter, the commission may recover from the employer reasonable investigative costs incurred by the commission in conducting the investigation, regardless of whether the employer has taken an action described by Subsection (a)(1) or (2).

Added by Acts 2023, 88th Leg., 3rd C.S., Ch. 1 (S.B. 7), Sec. 1, eff. February 6, 2024.

Sec. 81D.007. RULES. The commission shall adopt rules as necessary to implement and enforce this chapter.

Added by Acts 2023, 88th Leg., 3rd C.S., Ch. 1 (S.B. 7), Sec. 1, eff. February 6, 2024.