

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 23

BY SENATORS RUCKER, AZINGER, BOLEY, GRADY,

KARNES, MAYNARD, PHILLIPS, SMITH, SYPOLT,

WOODRUM, ROBERTS, AND MARTIN

[Introduced January 12, 2022; referred
to the Committee on Health and Human Resources]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §16-65-1, §16-65-2, §16-65-3, §16-65-4, and §16-65-5, all relating to the
 3 prohibition of mandatory COVID-19 vaccinations for West Virginia residents; providing for
 4 definitions; generally prohibiting governmental entities from mandating the COVID-19
 5 vaccine; prohibiting the requirement of mandatory vaccine passports; and providing for
 6 certain exceptions and clarifications.

Be it enacted by the Legislature of West Virginia:

ARTICLE 65. COVID-19 VACCINE RESTRICTIONS ACT.

§16-65-1. Short title.

1 This article is known as the “COVID-19 Vaccine Restrictions Act.”

§16-65-2. Definitions.

1 As used in this section:

2 (a) “Governmental entity” means:

3 (1) An executive branch agency;

4 (2) The legislative branch;

5 (3) The judicial branch;

6 (4) The West Virginia Board of Education;

7 (5) The West Virginia Higher Education Policy Commission;

8 (6) A public institution of higher education; and

9 (7) A political subdivision of the state.

10 (b) “Emergency COVID-19 vaccine” means a substance that is:

11 (1) Authorized for use by the United States Food and Drug Administration under an
 12 emergency use authorization under 21 U.S.C. Sec. 360bbb-3;

13 (2) Injected into or otherwise administered to an individual; and

14 (3) Intended to immunize an individual against COVID-19.

§16-65-3. Governmental entities prohibited from requiring COVID-19 vaccines.

1 Except as otherwise provided, a governmental entity may not require, directly or indirectly,
2 that an individual receive an emergency COVID-19 vaccine. The prohibited activities under
3 include:

4 (a) Making rules that require, directly or indirectly, that an individual receive an emergency
5 COVID-19 vaccine;

6 (b) Requiring that an individual receive an emergency COVID-19 vaccine as a condition
7 of:

8 (1) Employment;

9 (2) Participation in an activity of the governmental entity, including outside or
10 extracurricular activities; or

11 (3) Attendance at events that are hosted or sponsored by the governmental entity; and

12 (c) Any action that a reasonable person would not be able to deny without significant harm
13 to the individual.

§16-65-4. Prohibition of vaccine passports.

1 As used in this section, “vaccine passport” means documentation that an individual has
2 been vaccinated against coronavirus 2019 (COVID-19). The state, a state agency or entity, a
3 political subdivision of the state, or a state or local official shall not require an individual to use a
4 vaccine passport in this state for any purpose. The use of a vaccine passport shall not be a
5 condition for entry, travel, education, or services.

§16-65-5. Exceptions.

1 This does not include:

2 (a) Facilitating the distribution, dispensing, administration, coordination, or provision of an
3 emergency COVID-19 vaccine;

4 (b) An employee of a governmental entity who is:

5 (1) Acting in a public health or medical setting; and

6 (2) Required to receive vaccinations in order to perform the employee's assigned duties

7 and responsibilities; or
8 (3) Enforcement by a governmental entity of a non-discretionary requirement under federal
9 law.
10 This section may not be suspended or modified by the governor or any other chief
11 executive officer under §15-5-6 of this Code.

NOTE: The purpose of this bill is to prohibit the requirement of the COVID-19 vaccine and “vaccine passports” in the state of West Virginia.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.