

Florida Expands Ban on Vaccination, Testing and Masking Mandates

Law and the Workplace on **May 26, 2023**

On May 11, 2023, Governor Ron DeSantis signed into law a “medical freedom” bill ([SB 252](#)), which amends and expands the existing Florida statute Section 381.00316, prohibiting businesses from requiring their customers and patrons to provide documentation of COVID-19 vaccination status. Under the amended law, businesses in Florida will be prohibited from discriminating in any way against a person (no longer just a customer or patron) based on vaccination status and from requiring face masks and COVID-19 tests. The new law goes into effect on June 1, 2023.

Notably, certain of the prohibitions in the new law are not limited to COVID-19 vaccines or response efforts. The vaccine provisions extend to all emergency use authorization vaccines and all messenger ribonucleic acid (mRNA) vaccines, and the masking/face covering limitations are also broadly drafted. As such, the restrictions enumerated below will be in place and may impact businesses’ response to any future pandemic or public health emergency should it occur.

Under the amended law, no business entity in Florida (as defined further below) may:

- Require any person to provide any documentation certifying vaccination with a COVID-19 vaccine (or any other emergency use or mRNA vaccine) or post-infection recovery from COVID-19;
- Require a COVID-19 test to gain access to, entry upon, or service from the business operations in Florida or as a condition of contracting, hiring, promotion, or continued employment with the business entity;
- Discharge or refuse to hire a person; deprive or attempt to deprive a person of employment opportunities; adversely affect a person’s status as an employee or as an applicant for employment; or otherwise discriminate against a person based on knowledge or belief of the person’s status relating to vaccination with COVID-19 vaccine (or any other emergency use or mRNA vaccine) or COVID-19 post-infection recovery, or a person’s failure to take a COVID-19 test;

- Require a person to wear a face mask, a face shield, or any other facial covering that covers the mouth and nose; or
- Deny a person access to, entry upon, service from, or admission to such entity or otherwise discriminate against a person based on such person's refusal to wear a face mask, a face shield, or any other facial covering that covers the mouth and nose.

The amended statute defines "business entities" broadly as any form of corporation, partnership, association, cooperative, joint venture, business trust, or sole proprietorship that conducts business in Florida. The term also includes charitable organizations, not for profit corporations and all other businesses operating in Florida.

If a business entity requires a person to receive a vaccine other than a COVID-19, emergency use or mRNA vaccine, the business entity must provide for exemptions and reasonable accommodations.

Under the two exceptions written into the law, the face mask, face shield or any other facial covering restrictions may be maintained by: (1) health care providers and health care practitioners if they are in compliance with the standards to be developed by the Florida Department of Health (DOH) and Agency for Health Care Administration by July 1, 2023, and (2) business entities when a face mask, a face shield, or any other facial covering is required safety equipment in accordance with standards to be adopted by the Florida DOH, which the law directs to adopt emergency rules to develop such standards.

Employers who violate the amended law are subject to a fine up to \$5,000 for each individual and separate violation. The amended law does not limit an aggrieved person's right to recover damages or other relief under any other applicable law.

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