

IN THE SENATE

SENATE BILL NO. 1088

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO CORONAVIRUS; PROVIDING LEGISLATIVE INTENT; AMENDING TITLE 73, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 5, TITLE 73, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROHIBIT CORONAVIRUS VACCINATION REQUIREMENTS, AND TO PROVIDE FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. LEGISLATIVE INTENT. The coronavirus, as defined in this act, and its vaccinations are relatively new medical developments. It is the public policy of the State of Idaho that the decision to receive such a coronavirus vaccination is a very personal and individual decision. Individuals should not be treated differently or discriminated against because they have or have not received a coronavirus vaccination.

The Legislature recognizes that Section 10, Article I of the United States Constitution and Section 16, Article I of the Constitution of the State of Idaho provide that the state cannot pass laws impairing the obligation of contracts. Due to these constitutional provisions, the Legislature acknowledges that the provisions of this act do not apply to contracts existing prior to the effective date of this act. The Legislature intends that the provisions of this act apply to contracts and any applicable coronavirus provisions entered into after the effective date of this act. The Legislature further acknowledges that Idaho is an "at-will" employment state and, as such, the terms of "at-will" employment come into play anew each time an employee works. The Legislature intends this act to apply to "at-will" employment going forward from the effective date of this act.

SECTION 2. That Title 73, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 5, Title 73, Idaho Code, and to read as follows:

CHAPTER 5  
CORONAVIRUS STOP ACT

73-501. SHORT TITLE. This chapter shall be known and may be cited as the "Coronavirus Stop Act."

73-502. DEFINITIONS. As used in this chapter:

(1) "Business entity" means any person or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not-for-profit. "Business entity" shall include but not be limited to:

(a) Self-employed individuals, business entities filing articles of incorporation, partnerships, limited partnerships, limited liability companies, foreign corporations, foreign limited partnerships, for-

1       eign limited liability companies authorized to transact business in  
2       Idaho, business trusts, and any business entity that registers with the  
3       secretary of state; and

4       (b) Any business entity that possesses a business license, permit, cer-  
5       tificate, approval, registration, charter, or similar form of autho-  
6       rization issued by the state; any business entity exempt by law from ob-  
7       taining such a business license; and any business entity operating un-  
8       lawfully without such a business license.

9       (2) "Coronavirus" means:

10      (a) Severe acute respiratory syndrome coronavirus 2;

11      (b) The disease caused by severe acute respiratory syndrome coron-  
12      avirus 2; or

13      (c) Any subsequently identified mutation, modification, or strain of  
14      severe acute respiratory syndrome coronavirus 2 if the transmission of  
15      said virus among humans rises to the level of an epidemic or pandemic and  
16      qualifies for an emergency declaration under applicable Idaho law.

17      (3) "Coronavirus vaccination" means the introduction of a coronavirus  
18      vaccine into the human body.

19      (4) "Foreign jurisdiction" means any state, commonwealth, country, or  
20      nation outside the state of Idaho.

21      (5) "Ticket issuer" means an individual or entity providing tickets to  
22      an entertainment event, including any of the following:

23      (a) The operator of the venue where an entertainment event occurs;

24      (b) The sponsor or promoter of an entertainment event;

25      (c) A sports team participating in an entertainment event or a league  
26      whose teams are participating in an entertainment event;

27      (d) A theater company, musical group, or similar participant in an en-  
28      tertainment event; or

29      (e) An agent of any individual or entity described in this subsection.

30       73-503. CORONAVIRUS VACCINATION REQUIREMENTS PROHIBITED. (1) A busi-  
31       ness entity doing business in the state of Idaho shall not refuse to provide  
32       any service, product, admission to a venue, or transportation to a person be-  
33       cause that person has or has not received a coronavirus vaccination.

34       (2) A business entity doing business in the state of Idaho shall not re-  
35       quire a coronavirus vaccination as a term of employment unless required by  
36       federal law or in such cases where the terms of employment include travel to  
37       foreign jurisdictions requiring coronavirus vaccinations as the only coro-  
38       navirus-related means of entry or where the terms of employment require en-  
39       try into a place of business or facility in a foreign jurisdiction and such  
40       place of business or facility requires a coronavirus vaccination as the only  
41       coronavirus-related means of entry. In any such instance where an employ-  
42       ee is required to obtain a coronavirus vaccination due to travel to a foreign  
43       jurisdiction or entry into a place of business or facility in a foreign ju-  
44       risdiction, said requirement shall either be included in a valid written em-  
45       ployment contract between the employer and the employee or, when a written  
46       employment contract does not exist, advance written notice shall be provided  
47       to an impacted employee no less than fourteen (14) days prior to such em-  
48       ployee being required to receive a coronavirus vaccination. Business enti-

1 ties that receive medicare or medicaid funding shall be exempt from the re-  
2 quirements of this subsection.

3 (3) A ticket issuer shall not penalize, discriminate against, or deny  
4 access to an entertainment event to a ticket holder because the ticket holder  
5 has or has not received a coronavirus vaccination.

6 (4) Unless required by federal law, no state, county, or local govern-  
7 ment entity or official in Idaho shall require any person to receive a coron-  
8 avirus vaccination.

9 (5) Unless required by federal law, no state, county, or local govern-  
10 ment entity or official in Idaho shall require any person to receive a coron-  
11 avirus vaccination as a condition for:

12 (a) Receipt of any government benefit;

13 (b) Receipt of any government services;

14 (c) Receipt of any government-issued license or permit;

15 (d) Entrance into any public building;

16 (e) Use of public transportation; or

17 (f) A term of employment, provided that such entities that receive  
18 medicare or medicaid funding shall be exempt from the requirements of  
19 this paragraph.

20 (6) No state, county, local government, or business entity in Idaho  
21 shall provide or offer any different salary, hourly wage, or other ongoing  
22 compensation or benefits to an employee based on whether the employee has  
23 or has not received a coronavirus vaccination. However, it shall not be  
24 unlawful for such entities to offer onetime incentives related to coron-  
25 avirus vaccinations that do not result in any different salary, hourly wage,  
26 or ongoing compensation or benefits being provided to an employee based on  
27 whether they have or have not received a coronavirus vaccination. A business  
28 entity may permit its employees to be released from work for the purpose of  
29 receiving a coronavirus vaccination.

30 (7) The ability to require a coronavirus vaccination under this chap-  
31 ter is subject to other statutory or constitutional provisions regarding re-  
32 quests for coronavirus vaccination exemptions and requirements to provide  
33 reasonable accommodation.

34 (8) A person who is subjected to a violation of any provision of this  
35 section may maintain an action against the business entity, state, county,  
36 city, or local government entity in Idaho that committed such violation.  
37 In addition to damages and other relief available under Idaho law, a person  
38 subjected to a violation of the provisions of this section shall be awarded  
39 statutory damages in the amount of five thousand dollars (\$5,000). The pre-  
40 vailing party in an action filed pursuant to this subsection shall be awarded  
41 reasonable attorney's fees and costs associated with the action.

42 73-504. SEVERABILITY. The provisions of this chapter are hereby de-  
43 clared to be severable, and if any provision of this chapter or the applica-  
44 tion of such provision to any person or circumstance is declared invalid for  
45 any reason, such declaration shall not affect the validity of the remaining  
46 portions of this chapter.

47 SECTION 3. An emergency existing therefor, which emergency is hereby  
48 declared to exist, this act shall be in full force and effect on and after its  
49 passage and approval.