

2021 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1301

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

HB 1301
1/27/2021

Employer immunity for communicable diseases & mandatory communicable disease immunizations.
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(2:18) Chairman Lefor calls the hearing to order.

Representatives	Attendance
Chairman Lefor	P
Vice Chairman Keiser	P
Rep Hagert	P
Rep Jim Kasper	P
Rep Scott Louser	P
Rep Nehring	P
Rep O'Brien	P
Rep Ostlie	P
Rep Ruby	P
Rep Schauer	P
Rep Stemen	P
Rep Thomas	P
Rep Adams	P
Rep P Anderson	P

Discussion Topics:

- Liability protection
- Mandating vaccination

Rep B Koppelman~District 16 introduced the bill. Attachment #3873.

Arik Spenser~CEO of the Greater ND Chamber. Attachment #3849.

Mike Rud~ND Retail & Petroleum Marketers Association. Testified in opposition.

(2:46) Chairman Lefor closes the hearing.

Additional written testimony: Attachments # 2416, 3268, 3695, 3697,3707, 3756, 3770 & 3779.

(2:46) End time.

Ellen LeTang, Committee Clerk

HB 1301

Rep. Ben Koppelman- Testimony

Mr. Chairman and Members of the Committee,

Thank you for the opportunity to introduce HB 1301 to you today.

HB 1301 will protect employers by providing much needed liability protection against claims by employees relating to contracting a communicable disease. The bill also will protect the medical privacy of employees by prohibiting most employers from mandating vaccination as a condition of employment.

As you may know, most viruses, bacteria, and other contagious causes of illness are tough to contain, and we rarely know for certain where transmission occurs. During the Covid-19 outbreak, employers went to extraordinary length trying to preserve the jobs of their employees while at the same time maintaining a safe working environment. They continued to follow OSHA regulations and took other measures to keep their employees and customers safe. However, as we have learned, no amount of effort on the employer's part could stop all transmission of this illness. We also know that we live in a litigious society.

Thus, I believe that employers could still be vulnerable to lawsuits claiming they just didn't do enough. Section 1 of this bill would limit that liability to willful misconduct on the part of the employer and would not allow any civil action if that legal burden is not met. This liability protection will apply to all communicable diseases rather than just applying to Covid-19, so that this protection will apply to future illnesses as well.

Since we are providing liability protection for employers relating to communicable diseases, I don't believe there would be a reason for businesses to require vaccinations. Vaccinating should be a personal

choice made based on information provided, and vaccination records should be part of an individual's confidential medical history. However, due to the unique proximity to disease and infection that is likely in healthcare facilities there is a narrow exception in Section 2 of the bill where healthcare employers could require certain vaccinations if they meet certain criteria. Also in section 2, there is an opt-out provision for employees who wish to not take that particular vaccine.

Mr. Chairman and Members of the Committee, I am comfortable with the bill in its current form. However, I have been on numerous video conference calls with a representative of the Long-term Care Assn., the Hospital Assn., and the Medical Assn., and after discussion about some concerns that they had, I drafted an amendment that I think would solve those concerns and be a reasonable compromise. Prior to this hearing I shared the proposed amendment with these interested groups. If these groups are each in support of the bill with the amendment, then I would ask that you adopt the amendment.

I request that you give this bill a Do-Pass recommendation. I would be happy to answer any questions that you may have.

**Greater North Dakota Chamber
HB 1301
House Industry, Business, and Labor Committee
January 27th, 2021**

#3849

Mr. Chairman and members of the House Industry, Business, and Labor Committee, my name is Arik Spencer, President and CEO of the Greater North Dakota Chamber. GNDC is North Dakota's largest statewide business advocacy organization. We are here in opposition to House Bill 1301.

While we are supportive of the COVID-19 liability protections offered to employers by HB 1302, our opposition is because a business owner should have the right and ability to determine how they operate their business. GNDC believes that business owners understand how their decisions impact their business's success and make decisions in their business's best interest. Owners who wish to require their employees to become vaccinated for any communicable disease, whether for COVID-19, tetanus, or the flu, it's for the benefit of their operation.

Employment is a two-way street. Employers select employees, but employees also select who their employer is. Employees determine where they wish to work for various reasons, and the requirement for vaccination can be weighed along with other factors, including pay, hours, duties, and personal belief systems. While very few employers generally require vaccinations, employees ultimately choose whether to accept any requirement of employment as employers compete against each other for workers.

Mr. Chairman, this concludes my remarks. I urge the committee to reject HB 1301, and I would be happy to stand for any questions you have.

I am writing to strongly encourage you to support HB 1301. This bill is a steppingstone and will provide a gateway to prevent future vaccine/immunization mandates as a condition of employment. Many healthcare facilities already mandate flu vaccination as a condition of employment.

I feel these administrators are following the recommendation from federal entities (CDC and WHO) and taking these recommendations at face value and are not following through on due diligence to ensure vaccine safety for their employees.

There is very extensive research and information available surrounding vaccine/immunization injury. Unfortunately, the CDC and WHO continue to disregard this proven fact and move forward on profitable agendas.

Vaccines are pharmaceutical products that can unpredictably cause injury and death for both healthy and susceptible individuals. Congress and the U.S. Supreme Court have declared federally licensed and recommended vaccines to be “unavoidably unsafe” and shielded drug companies and vaccine providers from vaccine injury lawsuits in civil court. Under the 1986 National Childhood Vaccine Injury Act, \$3.5 billion dollars in federal compensation has been awarded for vaccine injuries and deaths caused by federally recommended and state mandated vaccines, although two out of three plaintiffs are denied compensation and most vaccine injury awards today are for adults injured by influenza vaccine.

Upon reading through the proposed HB 1301, there is language written in to protect the employer from liability and civil lawsuits from employees. I fully agree with this, but in contrary how can we protect employers from liability and civil lawsuits and NOT protect employees from harm or damage caused by a mandatory vaccine/immunization? The Act of 1986 shields vaccine manufacturers and medical personnel that administer vaccines to have full immunity from liability or civil litigation from vaccine harm or injury. This is clearly a double standard.

Despite vaccine science knowledge gaps, medical contraindications have been narrowed by the U.S. Centers for Disease Control (CDC) and medical trade associations so that no family medical history and almost no personal medical history or health condition qualifies for a medical vaccine exemption. This is another way to control the population and enforce a “soft” mandate on vaccines. It is extremely important to keep the language in Section 2, subset 3c “...does not object to the immunization for health, religious, and philosophical reasons.” This allows employees a leg to stand on allowing personal choice, body autonomy, and true health freedom.

I would urge you to clarify and define the word “immunization” in this bill. Is the word immunization interchangeable with the word “vaccine?” This has significant importance as we move forward with public health laws.

I also urge you to NOT tailor this bill to only apply to the COVID vaccine. This bill does not represent only today’s pressing issues, but rather to setting a precedence for future health freedoms in our state.

Respect for individual human life and liberty in public health policy and lawmaking prevents discrimination against vulnerable minorities and avoids the creation of a “tyranny of the majority,” which ultimately compromises the integrity of what is being defined as the “common good.”

Please review the following articles to broaden your view on vaccine safety and the incredible importance of supporting and passing HB 1301. Thank you for your time and I look forward to your response and views regarding HB 1301.

https://articles.mercola.com/sites/articles/archive/2020/10/11/act-of-1986.aspx?cid_medium=etaf&cid=share

https://articles.mercola.com/sites/articles/archive/2015/06/05/medical-vaccine-exemption.aspx?cid_medium=etaf&cid=share

https://articles.mercola.com/sites/articles/archive/2020/09/08/will-the-flu-shot-help-with-coronavirus.aspx?cid_medium=etaf&cid=share

https://articles.mercola.com/sites/articles/archive/2020/11/11/coronavirus-antibody-dependent-enhancement.aspx?cid_medium=etaf&cid=share

Respectfully submitted as my support for HB 1301,

Jennifer Vesey

Sixty-seventh Legislative Assembly of North Dakota

Re: Testimony in favor of HB 1301

Attn: Committee Members,

I, Todd Kjelland am writing in favor of passing House Bill 1301. I am a former employee of Good Samaritan Society/Sanford Health (GSS/SH) who has been directly affected with employment termination regarding mandated vaccination policy.

In addition to my religious objections, I believe mandatory vaccinations as a requirement to retain or gain employment is illegal and unethical.

In regard to violations of United States Federal Code, Title 45; Subtitle B; Chapter VI; Part 689 GSS/SH failed to disclose the company's intent to collect a financial bonus of two percent (2%) of Medicare/Medicaid payments if the company could boost employee flu vaccine participation above a ninety percent (90%) threshold as predetermined by Federal Healthy People 2020 goals. Intentional non-disclosure of the financial gain violates Informed Consent Law and violates the medical industry code of ethics and thus GSS/SH committed one count of Medical Battery for each employee who received the mandatory flu vaccine. If the patient has been lied to about the treatment or there is other fraud in the informed consent, then the entire consent is invalid.

GSS/SH also willfully denied obtaining grant money from vaccine manufacturers Merck and Sanofi Pasteur for their VAX Champ program which violates ethical conduct. Sanofi Pasteur supplied the 2019-2020 flu vaccine. This information was discussed and blatantly denied during a January 30 phone call with GSS/SH Human Resources. Even after the information was publicly displayed on the Sanford Health website.

Federal law defines human subjects research in the United States as a systematic investigation about an interaction or intervention with a living individual that's designed to create generalizable knowledge.

GSS/SH mandated flu vaccine policy is an intentional act of coercion which violates Federal Laws of Labor Trafficking. GSS/SH gained financial benefit, coerced employees to comply through unreasonable accommodations, thus exploiting employees as defined by 18 U.S. Code Chapter 77, Title 18.

GSS/SH conducts unethical and deceitful human experimentation through their mandatory flu vaccine policy. They collect and record data regarding participation for inclusion in the state registry along with collecting information of personal health history, and status of pregnancy. This defines the mandatory flu vaccine policy as a clinical trial or human experiment thus further advocating the Federal requirements of "informed consent."

In addition to the legal argument, I hold a deep religious belief which challenges the intentional defiling of not only my own, but all human organic bodies, along with the spiritual intellect and sanctity of the soul. This not being limited to the subject of the flu vaccine but all of man or machine-generated mutations invading God's temple via injections or oral consumption.

Through the injection of foreign, modified or synthetic DNA and gene altered material into our bodies I believe we are no longer living organisms as how God created us, In His Image.

“Genesis 1:26-27 - Then God said, "Let Us make man in Our image, according to Our likeness; and let them rule over the fish of the sea and over the birds of the sky and over the cattle and over all the earth, and over every creeping thing that creeps on the earth." God created man in His own image, in the image of God He created him; male and female He created them.”

Our body is a temple to God as stated in 1 Corinthians 3:16-17 “16 Don't you know that you yourselves are God's temple and that God's Spirit dwells in your midst? 17 If anyone destroys God's temple, God will destroy that person; for God's temple is sacred, and you together are that temple.”

Accordingly, I believe, pursuant to my Christian faith, that my body is a temple of the Holy Spirit. It is a God-given responsibility and requirement for me to protect the physical integrity of my body against unclean food and injections.

The broad prohibition against consuming anything that might “defile” the body, and hence the conscience, is stated again in I Corinthians 8:7: “Howbeit there is not in every man that knowledge: for some with conscience of the idol unto this hour eat it as a thing offered unto an idol; and their conscience being weak is defiled.”

Again, in 2 Corinthians 7:1, “there is this admonition against defiling the flesh and the spirit: Having therefore these promises, dearly beloved, let us cleanse ourselves from all filthiness of the flesh and spirit, perfecting holiness in the fear of God.”

While I hold a close belief of not purposely defiling my physical body, I hold closer the belief in protection of my spirit body, or as often referred to as “soul.”

My Christian faith believes in the Trinity, that we are born of the Father, Son and Holy Spirit. And we are to protect and honor all three aspects of our being.

Defiling one aspect of our being, defiles all three components and I believe when we defile our body, we open up our soul to spiritual warfare which then allows Satan to weaken our spirit, and eventually our physical bodies. I believe we are at a constant war with evil and must protect our temple (body and soul) against the forces of Satan that seek to destroy the righteousness of God.

Many things do not seem harmful by human reasoning, but because God knows much more than we do He warns us not to participate in them. God wants to protect us. He knows that there's an evil being who wants to destroy mankind. This evil being is known as Gadreal, Satan, the devil, Lucifer, and by many other names. God loves us, but Satan only hates. Satan is the one who tempted Eve to eat the forbidden fruit and is also the one who was arrogant enough to try to tempt Jesus into sin. Satan is also at work today and he uses the same lies that he has always used.

Thank you for your time and efforts to eliminate the illegal and unethical practice of mandatory vaccinations. This should be a choice each person should make on their own without coercion.

Todd Kjelland

701-331-2956

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Chairman Weisz and Members of the House Human Services Committee,

I am Melyssa Howry, of District 4, and I am in FULL support of HB1301. I will keep this short, as you have probably read much of my testimony already on the subject of informed consent and freedom of choice when it comes to vaccinations (HB1468, 1469, and 1377, for example). What I will say is first and foremost, THANK YOU to the wonderful representatives and senators who put their names on this bill. I am full of gratitude to have legislators who are seeking to protect our health and safety in the state of North Dakota. I came here nearly 3 years ago from New Hampshire, a state that prides itself in the motto, "Live Free or Die". I will say that while I love my home state, it has gradually moved further and further away from that ideal over the years. Coming here was a breath of fresh air. I quickly found that NH's motto was a much more fitting description of North Dakotans. The idea of individual liberty is alive and well in this state, and passing this bill would help to keep it that way.

What we have seen over the past year all over the country---and frankly, the world---is an egregious violation of our rights. Over and over, we had orders and restrictions placed on us that were cumbersome and ineffective. Mandatory vaccinations would be yet another one of those rules intended to control and manipulate us. Meeting a vaccination requirement in order to be hired or keep a job is yet another violation of human rights, the rights given to us by God and by the US Constitution. I know this already happens in many health care settings with the flu vaccine, and I can understand why that is the case. But for any other place of employment, it makes no logical sense to force someone to put something into their body against their will. Something that could potentially harm them. I have already read of lawsuits happening in other parts of the country where workplaces and/or schools are requiring the Covid-19 vaccine. Those places have all withdrawn the requirement in the face of said lawsuits. I think that speaks volumes as to the legality of such mandates. Passing this bill would set a precedent in North Dakota that it is not acceptable to even attempt to coerce employees to do something that is against their wills, regardless of the reason.

I appreciate the time and attention you have taken on these very important matters. Please vote "Do Pass" on HB1301 and send the message that private medical decisions will never be a condition of employment in our state. Thank you for listening!

Chairman and members of the House, Industry, Business, and Labor Committee,
(I apologize for my mistaken listing of the Human Services committee in my other submitted testimony, I didn't realize my mistake until after I had submitted!)

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I appreciate the time and attention you have taken on these very important matters. Please vote "Do Pass" on HB1301 and send the message that private medical decisions will never be a condition of employment in our state. Thank you for listening!

HB 1301 I urge you to vote “DO PASS” for this legislation.

I have been an Occupational Therapist for 22 years, working in hospitals, nursing homes, outpatient therapy locations, and schools. Because I know that **you cannot find health at the end of a needle**, I have not received vaccines for over 20 years. I have been forced to work out of state where my employer does not require me to be vaccinated. I strongly believe, and research supports, that because all vaccines have risk, no vaccines should be mandated. Employees want the freedom to make their own health decisions and employers benefit from informed and empowered employees. Healthcare workers are often held to a different standard when it comes to mandating health decisions, requiring they take on supposed “protective” effects while submitting them to the guaranteed risks. This is illogical since we are the ones capable of reading the science supporting our informed choices. Related to COVID, I have never feared my exposure, even when working closely with those who tested positive. I have not been sick one day in the last year despite contact. I am fearful of being mandated to surrender my health to policies created in fear.

It is very important to me that I have freedom to choose for myself and my family whether we take part in the controversial use of vaccinations. **The ability to have choice in regards to vaccines has affected where we live, where we work, and very easily could threaten where we do business.**

Opposition to this bill makes some lofty claims:

“Vaccines save lives.”

“Those injured by vaccines are provided compensation.”

“Preventing businesses from forcing vaccines will cause illness.”

As I lay out below, this rhetoric is used to steamroll mandated vaccine policies, gain percentage points of compliance with vaccines for stakeholders, and coerce people to make health decisions because they cannot afford not to work.

I am fully aware of the risks of vaccinating and the shortcuts that have been taken in creating these biologics. I understand that some people think they are safe, believe that their health provider has thoroughly researched them so they can be trusted to share any and all risks, and that if there were issues of safety that the manufacturers would quickly make the necessary changes to make them safe. These are unfortunately all false beliefs.

With biologics, otherwise called vaccines, the health provider gives the vaccine and then sometimes supplies a brief information sheet saying how “safe and effective” it is. There is little to no admittance of side effects, allergies, and contraindications. There is no discussion of the aluminum, fetal cell lines, mercury, animal retroviruses, and polysorbate 80, just to name a few other ingredients. Facts that the Hepatitis vaccine given to day one of newborn babies was studied for only 4 or 5 days before being added to the schedule to be given to millions of babies each year are dismissed because it is now on the approved childhood schedule. The fact that no vaccine has ever been tested and approved on pregnant women is not mentioned either. Facts

such as the childhood vaccination schedule has never been studied for safety and effectiveness, but all studies of vaccinated vs unvaccinated show drastically reduced health for those vaccinated. If they are so safe and effective, why do **54% of our children have chronic health conditions** and the US ranks last in infant mortality. Ironically, when they bring up herd immunity, it is the generation that had the measles, mumps, and rubella that are now protecting our population because the vaccine immunity wanes over time and most are expected to not be at a protective level any more.

If you have a question if the vaccine may be worse than what it treats, you are accused of being anti-vaccine. This term is used to debase the argument about having the freedom to choose what is injected in your body. By calling names, and bringing up statistics from before plumbing and nutrition diminished the majority of illnesses we vaccinate for, they attempt to make anyone not blindly accepting vaccines appear misinformed. That could not be further from the truth! The people that I know that are making these choices, care about their health, know that you **cannot get health through a needle**, and have informed themselves of the risks and benefits. There are also many who believed the propaganda that vaccines were 'safe and effective,' until they or their loved ones were permanently injured. Instead of asking why people are "vaccine hesitant," and trying to coerce compliance, maybe they should take notice of the consequences of vaccine injury and accept that vaccines are not a "one size fits all," **so should NEVER be mandated**.

In regards to injury, they are not mild or rare. The Vaccine Injury Compensation Program has awarded over \$4 billion dollars in funds due to injury (representing a tiny fraction of those that apply, as most cannot afford to fight or miss the window of submitting a claim because of not receiving informed consent). But most people are told incorrectly that any adverse reaction is "normal" and expected, even a "good sign" that it is working. We know that health providers report less than 1% of adverse events to the Vaccine Adverse Events Reporting System (VAERS) so they are not admitting the adverse events or they are not informed themselves enough to identify them. It is this same passive reporting system charged with determining if the vaccines are dangerous or causing too many injuries. This broken system has led to years of injuries before a vaccine is removed from use. A vaccine, once injected, cannot be "stopped" like a medication, so it is even more vital that it be left up to each individual to make their own risk vs benefit decision.

Pharmaceutical companies are not held liable for any injuries or deaths resulting from their use due to heavily lobbied for legislation in 1984. Not coincidentally, the number of vaccines put on the recommended schedule increased drastically after that decision. [Is the Childhood Vaccine Schedule Safe? – NVIC Newsletter](#) If a vaccine is placed on the recommended schedule, manufacturers have guaranteed profit with no liability. A tax on each vaccine goes to a fund to pay out for injuries, but this process takes years and the list of "allowed injuries that can receive pay outs" shrinks all the time. The injured person or parent has to fight against government lawyers and experts to try and prove injury, when the manufacturers have taken shortcuts and not proven safety. Still, the flu vaccine is a

large portion of the injuries to VAERS and a significant portion of the payouts, with exchange for lifelong disability. [Adult Vaccines Denied Federal Injury Compensation Coverage – NVIC Newsletter](#)

The health provider, business, nor employer are held liable when the vaccine they mandate causes illness, injury, or death. More and more businesses have been requiring the flu vaccine for employment, and this vaccine is known to be ineffective, increases the risk of getting other respiratory illnesses, and doesn't prevent hospitalization or death. [Influenza Information – NVIC](#) **We have a shortage of workers in healthcare, and healthcare is the most likely to mandate vaccinations, despite their not being proof of preventative effect.** I myself am very limited in where I can work in healthcare since I have chosen not to get vaccines. I have seen many employees having reactions from the COVID-19 vaccinations. I've heard many who only got it because they felt pressured to get it by their employer, and it isn't even approved by the FDA, yet!

I understand the common view that "vaccines are safe and effective." In fact, testimony in opposition claims as much, this however is not fact.

Because governmental agencies both sell vaccines and choose which ones to add to the schedule, they are hardly unbiased in their research and recommendations. Health providers are fed this research and told not to question the "science."

Because they are biologics, they are not required to be studied for years and against inert placebos.

Because there is no liability, no one is to blame or helps to cover medical and lifelong living costs due to injury.

Because they are accepted by most health providers as safe, adverse events are excused and injuries go unreported.

Because they are "required", people don't even know that they have a choice and don't know there are exemptions.

We need to ensure we are leaving the decision to vaccinate or not to vaccinate up to the ones who will be left responsible. Health decisions should be made, not forced.

We need to allow people to make their own risk vs benefit analysis after being informed, not pressured.

Please pass this bill to show your support for our philosophical, religious, and medical exemptions therefore protecting our most basic right, the right for health freedom.

Erin McSparron

Good morning.

I would like to officially submit written testimony in favor of House Bill 1301.

I find it alarming that you will be confronted over and over again by the same list of individuals that I have been writing to you about for months now as they are actively involved with every tactic you can think of to sway public opinion.

If you would like to see how your testimony will play out all you need to do is go to the Bismarck City Commissioners meeting on October 26th of 2020 and you can watch the rhetoric that will be brought before you today.

But as Dr. Bob said on Monday, January 25th while speaking in favor of House Bill 1468 he loses money every time he does not have a family completely vaccinated to the tune of almost 1.5 million dollars a year.

When you have honest doctors coming forward to testify about things like this you should take note. So many of the doctors within our borders are not speaking out at the moment because of the active cancel culture that is taking place in the medical community. They are threatened to be brought before their respective boards, publicly humiliated or fear losing their practices if they speak out.

If you think the host of pediatricians, state health officials, and business leaders that will come parading in front of you in opposition of this bill today legitimately care, I hate to tell you they have already shown their colors to the community.

Whether it was through active social media attacks like Dr. Kumar, or the multiple letters to the governor regarding masks and vaccines led by Dr. Anderson and Dr. Connell. Or how about yesterday with Matt Gardner speaking to how today is COVID day at the capital. We know the Department of Health is actively trying to kill any bill that comes through that takes their ability to control the citizens of the state.

This is what happens when unelected officials are given unilateral control of the population through Executive action. Please take some time to refresh yourself with Executive Order 2020-14. It was the turning point for the state last year.

Kylie Hall did an entire study on Immunization and vaccination in 2016 but the sample group at the end was underwhelming to say the least and seemed very narrow in focus.

https://www.ndhealth.gov/Immunize/Documents/Schools/ImmunizationandExemptionPoliciesandPracticesinNorthDakota_20160615.pdf?fbclid=IwAR0MqSIPbjEZFWKO_L9bz5ud0fkKIG9oclr_Dt5BXU4ZKVTYFBrdYq5XIh8

Let's not forget Molly Howell standing up after Governor Burgum said "If you don't like the mitigation measures, get in line and get your vaccine." and went on to say how social distancing and masks would still be required.

I literally could have scripted their testimony for the last few days.

Here are some hard numbers for you.

The State Department of Health has a budget shortfall of 32,092,680 due to "COVID-19".

The Governor spent 1.8 million dollars on the Mask Up ND campaign.

The Burleigh-Morton Covid Taskforce paid for all the social media fear campaigns about masks on Bismarck public schools website.

The State wasted 1.25 billion dollars to fight COVID only to kill our economy.

Yet we can't end the state of emergency because we will lose federal funds.

The only thing this bill is not addressing is NDCC 23-01-05(12) which should strike the following line as well.

Disease control measures may include ~~special immunization activities~~ and decontamination measures.

This bill needs to pass. Your constituents are tired of being ruled and lied to. I know I am.

Thank you to those who brought this bill forward.

Sincerely Izaak Darkk.

Good Morning Chairman Lefor and members of the House Industry, Business and Labor Committee. My name is Kirby Kruger and I am the Disease Control and Forensic Pathology Section with the North Dakota Department of Health. I do not have testimony for HB1301 but want to let you know I am available virtually to answer questions, if needed. Thank You.

#3779

01/27/2021

Hello, my name is Sarah Lepp and I am in favor of HB 1301. I believe that there should be no fault to the employer if an employee would contract a communicable disease as it is hard to trace where something like that could have been contracted. I also believe that there should be no mandatory vaccination from the employer to obtain or retain employment regardless of where the employment or position even though this does say in a medical profession, they can require them, I understand the want to have said vaccinations due to dealing with compromised people on a daily basis however, I agree they should be able to claim their religious or philosophical exemptions without hassle. Thank you for your time and again I ask for a DO PASS on this bill.

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

HB 1301
2/2/2021

Employer immunity for communicable diseases & mandatory communicable disease immunizations.

Representatives	Attendance
Chairman Lefor	P
Vice Chairman Keiser	P
Rep Hagert	P
Rep Jim Kasper	P
Rep Scott Louser	P
Rep Nehring	P
Rep O'Brien	P
Rep Ostlie	P
Rep Ruby	P
Rep Schauer	P
Rep Stemen	P
Rep Thomas	P
Rep Adams	P
Rep P Anderson	P

Chairman Lefor called the hearing to order.

Discussion Topics:

- Liability protection
- Mandating vaccination

Rep B Koppelman amendment #21.0117.06007. Attachment #4989.

Rep Keiser moved the amendment 21.0117.06007.

Rep Stemen seconded.

Voice Vote. Motion carried.

Re Adams moved Do Not Pass as Amended.

Representative P Anderson seconded.

Representatives	Vote
Chairman Lefor	N
Vice Chairman Keiser	Y
Rep Hagert	Y
Rep Jim Kasper	N
Rep Scott Louser	N
Rep Nehring	N
Rep O'Brien	Y
Rep Ostlie	Y
Rep Ruby	N
Rep Schauer	N
Rep Stemen	Y
Rep Thomas	N
Rep Adams	Y
Rep P Anderson	Y

Roll call vote. Motion fails due to tie vote 7-7-0.

Representative Keiser moved for no committee recommendation as amended.

Rep O'Brien seconded the motion.

Representatives	Vote
Chairman Lefor	Y
Vice Chairman Keiser	Y
Rep Hagert	Y
Rep Jim Kasper	N
Rep Scott Louser	N
Rep Nehring	Y
Rep O'Brien	Y
Rep Ostlie	Y
Rep Ruby	N
Rep Schauer	N
Rep Stemen	Y
Rep Thomas	Y
Rep Adams	Y
Rep P Anderson	Y

Roll call vote. Motion carried 10-4-0. Rep Thomas is the carrier.

(3:56) End time.

Ellen LeTang, Committee Clerk

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1301

Page 1, line 1, after the first "to" insert "provide for limits on access to vaccination status and records; to"

Page 1, line 2, replace "employer" with "civil"

Page 1, line 4, replace "provide for retroactive application" with "declare an emergency"

Page 1, after line 5, insert:

"SECTION 1.

Vaccination status or records.

1. A person may not inquire about an individual's vaccination status or request access to an individual's vaccination records.
2. This section does not apply to a health care facility, health care provider, or to an entity required to comply with section 23-07-17.1. For purposes of this section, "health care facility" means any facility in which health care services are provided and includes a hospital, special care unit, skilled nursing facility, intermediate care facility, basic care facility, assisted living facility, ambulatory surgical center, freestanding emergency department, rural primary care hospital, critical access hospital, inpatient hospice facility, including a clinic not located on a hospital's primary campus, health maintenance organization, home health agency, any field hospital, modular field-treatment facility, and a diagnostic, examination, treatment, imaging, or rehabilitation center."

Page 1, line 8, replace "**Employer immunity**" with "**Immunity**"

Page 1, remove line 16

Page 1, line 17, replace "an employer" with "a person"

Page 1, line 18, replace "employee" with "individual"

Page 1, line 19, remove "during the course of employment"

Page 1, line 20, remove "an"

Page 1, line 21, replace "employer's" with ":

a. A person's"

Page 1, line 21, after "harm" insert " ; or

b. An immunization received by an employee or a prospective employee under section 3 of this Act"

Page 2, line 18, replace "A" with "Subject to subsection 4, a"

Page 2, line 26, replace "for" with "because of the employee's"

Page 2, line 27, replace the first underscored comma with "or the employee's"

Page 2, line 27, replace ", or philosophical reasons" with "beliefs"

Page 2, line 28, after "4." insert "A health care facility may not require an employee or a prospective employee receive an immunization for the prevention of a communicable disease as a condition of retaining or obtaining employment if the immunization went through an expedited development and review process before being approved for distribution and use."

5."

Page 3, line 1, replace "1" with "2"

Page 3, replace lines 5 and 6 with:

"SECTION 5. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1301: Industry, Business and Labor Committee (Rep. Lefor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (10 YEARS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1301 was placed on the Sixth order on the calendar.

Page 1, line 1, after the first "to" insert "provide for limits on access to vaccination status and records; to"

Page 1, line 2, replace "employer" with "civil"

Page 1, line 4, replace "provide for retroactive application" with "declare an emergency"

Page 1, after line 5, insert:

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Re-number accordingly

21.0117.06007

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1301

Introduced by

Representatives B. Koppelman, Hoverson, Kading, K. Koppelman, Rohr, Satrom

Senators Dever, Heitkamp, Kannianen, Myrdal

1 | A BILL for an Act to provide for limits on access to vaccination status and records; to create and
2 | enact a new section to chapter 32-03 and a new section to chapter 34-01 of the North Dakota
3 | Century Code, relating to ~~employer~~civil immunity for communicable diseases and mandatory
4 | communicable disease immunizations; to provide a penalty; to provide for application; and to
5 | ~~provide for retroactive application~~declare an emergency.

6 | **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 | **SECTION 1.**

8 | **Vaccination status or records.**

- 9 | 1. A person may not inquire about an individual's vaccination status or request access to
- 10 | an individual's vaccination records.
- 11 | 2. This section does not apply to a health care facility, health care provider, or to an entity
- 12 | required to comply with section 23-07-17.1. For purposes of this section, "health care
- 13 | facility" means any facility in which health care services are provided and includes a
- 14 | hospital, special care unit, skilled nursing facility, intermediate care facility, basic care
- 15 | facility, assisted living facility, ambulatory surgical center, freestanding emergency
- 16 | department, rural primary care hospital, critical access hospital, inpatient hospice
- 17 | facility, including a clinic not located on a hospital's primary campus, health
- 18 | maintenance organization, home health agency, any field hospital, modular
- 19 | field-treatment facility, and a diagnostic, examination, treatment, imaging, or
- 20 | rehabilitation center.

21 | **SECTION 2.** A new section to chapter 32-03 of the North Dakota Century Code is created
22 | and enacted as follows:

23 | **Employer immunity****Immunity for communicable disease - Exceptions.**

- 24 | 1. As used in this section:

1 a. "Communicable disease" means an illness caused by a virus, bacteria, fungi, or
2 parasite which is spread through contact with a contaminated surface, bodily
3 fluid, blood product, insect bite, or skin contact, or through the air.

4 b. "Employee" means an individual who performs a service for wages or other
5 remuneration under a contract of hire, written or oral, express or implied. The
6 term includes an independent contractor.

7 ~~c. "Employer" means the person that employs the employee.~~

8 2. Subject to subsection 3, ~~an employer~~ a person is immune from civil liability for damage,
9 loss, or injury that results from an ~~employee~~ individual contracting, being exposed to, or
10 potentially being exposed to a communicable disease during the course of
11 employment.

12 3. Immunity under subsection 2 does not apply to damage, loss, or injury caused by ~~an~~
13 employer's:

14 a. A person's willful misconduct or infliction of harm; or

15 b. An immunization received by an employee or a prospective employee under
16 section 3 of this Act.

17 **SECTION 3.** A new section to chapter 34-01 of the North Dakota Century Code is created
18 and enacted as follows:

19 **Mandatory immunization prohibited - Penalty for violation - Exemption.**

20 1. As used in this section:

21 a. "Communicable disease" means an illness caused by a virus, bacteria, fungi, or
22 parasite which is spread through contact with a contaminated surface, bodily
23 fluid, blood product, insect bite, or skin contact, or through the air.

24 b. "Health care facility" means any facility in which health care services are provided
25 and includes a hospital, special care unit, skilled nursing facility, intermediate
26 care facility, basic care facility, assisted living facility, ambulatory surgical center,
27 freestanding emergency department, rural primary care hospital, critical access
28 hospital, inpatient hospice facility, including a clinic not located on a hospital's
29 primary campus, health maintenance organization, home health agency, any field
30 hospital, modular field-treatment facility, and a diagnostic, examination,
31 treatment, imaging, or rehabilitation center.

- 1 2. Except as provided in subsection 3, an employer may not require an employee or a
2 prospective employee to receive an immunization for the prevention of a
3 communicable disease as a condition of retaining or obtaining employment. An
4 employer that violates this section is guilty of an infraction.
- 5 3. Subject to subsection 4, a health care facility may require an employee or a
6 prospective employee receive an immunization for the prevention of a communicable
7 disease as a condition of retaining or obtaining employment if:
- 8 a. The required immunization is listed in the health care facility's written
9 employment manual or policy;
- 10 b. The written employment manual or policy listing the required immunization is
11 reviewed, updated, published, and issued to all employees on an annual basis;
12 and
- 13 c. The employee or prospective employee does not object to the immunization
14 for because of the employee's health- or the employee's religious- or philosophical
15 reasons beliefs.
- 16 4. A health care facility may not require an employee or a prospective employee receive
17 an immunization for the prevention of a communicable disease as a condition of
18 retaining or obtaining employment if the immunization went through an expedited
19 development and review process before being approved for distribution and use.
- 20 5. A health care facility may provide reasonable modifications to workplace policies,
21 practices, procedures, or duties to an employee who objects to a required
22 immunization as provided under subsection 3.

23 **SECTION 4. APPLICATION.** Section 42 of this Act applies to all civil actions filed after
24 January 1, 2020, and applies to claims by an employee or former employee who knew or
25 reasonably should have known about the contraction, exposure, or potential exposure to a
26 communicable disease before the effective date of this Act.

27 ~~**SECTION 4. RETROACTIVE APPLICATION.** Section 2 of this Act applies retroactively to~~
28 ~~an employer that has made immunization a condition of employment after December 31, 2020.~~

29 **SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.