

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 create and enact a new section to chapter 32-03 and a new section to
2 chapter 34-01 of the North Dakota Century Code, relating to employer immunity for
3 communicable diseases and mandatory communicable disease immunizations; to provide a
4 penalty; to provide for application; and to provide for retroactive application.

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

6 **SECTION 1.** A new section to chapter 32-03 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Employer immunity for communicable disease - Exceptions.**

9 1. As used in this section:

- 10 a. "Communicable disease" means an illness caused by a virus, bacteria, fungi, or
11 parasite which is spread through contact with a contaminated surface, bodily
12 fluid, blood product, insect bite, or skin contact, or through the air.
- 13 b. "Employee" means an individual who performs a service for wages or other
14 remuneration under a contract of hire, written or oral, express or implied. The
15 term includes an independent contractor.
- 16 c. "Employer" means the person that employs the employee.
- 17 2. Subject to subsection 3, an employer is immune from civil liability for damage, loss, or
18 injury that results from an employee contracting, being exposed to, or potentially being
19 exposed to a communicable disease during the course of employment.
- 20 3. Immunity under subsection 2 does not apply to damage, loss, or injury caused by an
21 employer's willful misconduct or infliction of harm.

22 **SECTION 2.** A new section to chapter 34-01 of the North Dakota Century Code is created
23 and enacted as follows:

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

2 1. As used in this section:

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

6 b. "Health care facility" means any facility in which health care services are provided
7 and includes a hospital, special care unit, skilled nursing facility, intermediate
8 care facility, basic care facility, assisted living facility, ambulatory surgical center,
9 freestanding emergency department, rural primary care hospital, critical access
10 hospital, inpatient hospice facility, including a clinic not located on a hospital's
11 primary campus, health maintenance organization, home health agency, any field
12 hospital, modular field-treatment facility, and a diagnostic, examination,
13 treatment, imaging, or rehabilitation center.

14 2. Except as provided in subsection 3, an employer may not require an employee or a
15 prospective employee to receive an immunization for the prevention of a
16 communicable disease as a condition of retaining or obtaining employment. An
17 employer that violates this section is guilty of an infraction.

18 3. A health care facility may require an employee or a prospective employee receive an
19 immunization for the prevention of a communicable disease as a condition of retaining
20 or obtaining employment if:

21 a. The required immunization is listed in the health care facility's written
22 employment manual or policy;

23 b. The written employment manual or policy listing the required immunization is
24 reviewed, updated, published, and issued to all employees on an annual basis;
25 and

26 c. The employee or prospective employee does not object to the immunization for
27 health, religious, or philosophical reasons.

28 4. A health care facility may provide reasonable modifications to workplace policies,
29 practices, procedures, or duties to an employee who objects to a required
30 immunization as provided under subsection 3.

1 **SECTION 3. APPLICATION.** Section 1 of this Act applies to all civil actions filed after
2 January 1, 2020, and applies to claims by an employee or former employee who knew or
3 reasonably should have known about the contraction, exposure, or potential exposure to a
4 communicable disease before the effective date of this Act.

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