SENSATE, No. 3352

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED DECEMBER 1, 2022

Sponsored by:
Senator DECLAN J. O'SCANLON, JR.
District 13 (Monmouth)

SYNOPSIS
Restricts establishment of mandates to become vaccinated against coronavirus disease 2019 (COVID-19); establishes reimbursement program to cover certain out-of-pocket costs incurred in obtaining COVID-19 vaccine.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning vaccinations and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. Notwithstanding the provisions of P.L.2005, c.222 (C.26:13-1 et seq.) to the contrary, no person shall be required to be immunized against SARS-CoV-2 by:
   (1) an executive order issued by the Governor;
   (2) an order issued by any State, county, or local department, agency, office, or other governmental entity; or
   (3) a public or private child care center, preschool program, elementary or secondary school, or institution of higher education as a condition of attendance at the child care center, preschool program, elementary or secondary school, or institution of higher education.
   b. The provisions of subsection a. of this section shall not apply in the case of a health care worker or an individual employed by or providing services at a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) who is required to be immunized against SARS-CoV-2 as a condition of working with a medically-vulnerable population. Any requirement for a health care worker or an individual employed by or providing services at a licensed health care facility to be immunized against SARS-CoV-2 shall be subject to any other standards and requirements as apply under State and federal law concerning immunizations required for health care workers and individuals employed by, or providing services at, a licensed health care facility, including any exemptions as may apply when the immunization is medically contraindicated for an individual or when the individual objects to the immunization based on sincerely-held religious belief. In the case of an immunization against SARS-CoV-2 that is required by a health care facility for health care workers or other individuals, the immunization requirement shall additionally be subject to the same facility policies as apply to other immunizations required as a condition of working at or providing services at the facility, including any exemptions as may apply when the immunization is medically contraindicated for an individual or when the individual objects to the immunization based on sincerely-held religious belief.

2. a. The Department of Health shall establish a program to reimburse health care workers and individuals employed by or providing services at a long-term care facility who are required to be immunized against SARS-CoV-2 as a condition of working with a medically-vulnerable population for the out-of-pocket costs incurred by the individual to obtain the immunization against
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1 SARS-CoV-2. To be eligible for reimbursement for the
2 immunization against SARS-CoV-2 under the program, the
3 individual shall certify to the department:
4 (1) the actual out-of-pocket costs incurred by the individual in
5 obtaining the immunization against SARS-CoV-2;
6 (2) that the full cost of the SARS-CoV-2 immunization is not
7 covered under the individual’s health benefits plan;
8 (3) that the entity employing or utilizing the services of the
9 individual will not cover any portion of the cost of the SARS-CoV-
10 2 immunization that is not covered under the individual’s health
11 benefits plan;
12 (4) that the out-of-pocket costs incurred by the individual do not
13 represent a copay, coinsurance, or other cost sharing imposed by the
14 individual’s health benefits plan; and
15 (5) that the out-of-pocket costs incurred by the individual to
16 obtain the SARS-CoV-2 immunization represents an undue
17 financial burden to the individual.
b. An individual who submits a false certification to the
19 department pursuant to subsection a. of this section shall be
20 required to repay to the department the full amount of any
21 reimbursement paid to the individual out of program funds, and
22 shall additionally be liable to a civil penalty of up to $1,000, which
23 shall be collected by and in the name of the department in summary
24 proceedings before a court of competent jurisdiction pursuant to the
25 provisions of the “Penalty Enforcement Law of 1999,”
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27 3. This act shall take effect immediately.
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29 STATEMENT
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31 This bill prohibits State, county, and local government entities,
32 as well as public and private child care centers, preschool programs,
33 elementary and secondary schools, and institutions of higher
34 education, from mandating that any person be immunized against
35 SARS-CoV-2, the virus that causes coronavirus disease 2019
36 (COVID-19). The restriction will not apply to health care workers
37 or individuals employed by or providing services at a licensed
38 health care facility who are required to receive the immunization as
39 a condition of working with a medically-vulnerable population.
40 The bill additionally provides that any requirement that health
41 care workers and other individuals working or providing services at
42 a licensed health care facility be vaccinated against COVID-19 will
43 be subject to State and federal laws and health care facility policies
44 that apply to other vaccines that are required for health care workers
45 and other vaccines that are required as a condition of working or
46 providing services at a health care facility, including any
exemptions that apply when a vaccine is medically-contraindicated
for the individual or when the individual objects to the vaccine
based on sincerely-held religious belief.

The bill further requires the Department of Health (DOH) to
establish a program to reimburse health care workers and other
individuals who are required to receive the COVID-19 vaccine for
out-of-pocket costs. To be eligible for reimbursement, the
individual will be required to certify to the DOH: 1) the actual out-
of-pocket costs incurred by the individual; 2) that all or part of the
cost of the vaccine is not covered by health insurance; 3) that the
individual’s employer will not cover any portion of the cost of the
vaccine that is not covered by health insurance; 4) that the out-of-
pocket costs incurred are not a copay, coinsurance, or other cost
sharing imposed by the individual’s health insurer; and 5) that the
out-of-pocket costs of the vaccine represent an undue financial
burden to the individual. A person who submits a false certification
will be required to repay to the DOH the full amount of any
reimbursement received from the program, and will be liable to a
civil penalty of up to $1,000, to be collected by and in the name of
the DOH.

Although several vaccines against COVID-19 have shown
promise in slowing the spread of the disease, limiting the severity of
symptoms patients experience, and reducing the number of deaths
from the disease, the development of COVID-19 vaccines
proceeded at an unprecedented pace, and the vaccines first made
available to the general public did not complete the full process
ordinarily mandated by the U.S. Food and Drug Administration to
ensure the safety of new drugs and devices for human use.

It is the sponsor’s belief that, until there is a fuller record
concerning the safety, effectiveness, and long-term effects of the
COVID-19 vaccines being made available to the general public,
these vaccines should not be made mandatory outside of certain
health care settings.