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# REPORT OF THE REVENUE POLICY SUBCOMMITTEE

(G.M. Smith, Simrill, Herbkersman, Whitmire & Stavrinakis - Staff Contact: Sarah Hearn)

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## HOUSE BILL 3126

H. 3126 -- Reps. Jones, Burns, Chumley, Magnuson, Taylor, Haddon, Long, Forrest, McCabe, Oremus and Hill: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 11-1-130 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR THIS STATE OR ANY POLITICAL SUBDIVISION THEREOF TO ACCEPT ANY FEDERAL FUNDS TO ENFORCE AN UNLAWFUL FEDERAL MASK MANDATE OR UNLAWFUL FEDERAL VACCINE MANDATE.

*Received by Ways and Means: 12/9/20*

***Summary of Bill:***

This bill provides that it is unlawful for this state or its political subdivisions to accept any federal funds to enforce an federal mask mandate or federal vaccine mandate.

***Estimated Revenue Impact:***

*Pending*

***Other Notes/Comments:***

Strike-and-insert amendment adopted along with bill in subcommittee on 12/7/2021. Amendment is as follows: Section 1 prohibits the state or any political subdivision, including school districts, from mandating COVID-19 vaccines for employees, independent contractors, or students. Section 2 prohibits the same as section 1 but for first responders. Section 3 prohibits private employers from terminating or suspending individuals who do not receive a COVID-19 vaccine. Provision to protect private employers who are subject to federal vaccine mandates by allowing unvaccinated employees to undergo weekly COVID-19 testing -- this protects them from the forfeiture of federal funds. DHEC and MUSC will partner with private employers to provide this testing. Appropriating \$10 M to both agencies from the Contingency Reserve Fund to make this possible without placing a cost burden on the employers. Section 4 provides cause of action for employees to restore their position for violating this act and have the employer pay court costs and legal fees.

HOUSE  
AMENDMENT

THIS AMENDMENT  
ADOPTED

ALLEN  
DECEMBER 7, 2021

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CLERK OF THE HOUSE

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THE REVENUE POLICY SUBCOMMITTEE PROPOSES THE  
FOLLOWING AMENDMENT NO. TO H. 3126  
(COUNCIL\SA\3126C007.DF.SA21):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE BILL, AS AND IF AMENDED, BY  
STRIKING ALL AFTER THE ENACTING WORDS AND  
INSERTING:**

**/ SECTION 1. THE STATE OR ANY POLITICAL  
SUBDIVISION THEREOF, INCLUDING A SCHOOL  
DISTRICT, MAY NOT ENACT A COVID-19 VACCINE  
MANDATE FOR ANY EMPLOYEE, INDEPENDENT  
CONTRACTOR, OR STUDENT AS A CONDITION OF  
EMPLOYMENT OR ATTENDANCE.**

**SECTION 2. CHAPTER 15, TITLE 8 OF THE 1976 CODE IS AMENDED BY ADDING:**

**“SECTION 8-15-80. (A) NEITHER THE STATE, NOR ANY OF ITS POLITICAL SUBDIVISIONS, MAY TERMINATE A PERSON EMPLOYED AS A FIRST RESPONDER IF THE FIRST RESPONDER DOES NOT UNDERGO A COVID-19 VACCINATION.**

**(B) FOR PURPOSES OF THIS SECTION, ‘FIRST RESPONDER’ MEANS A LAW ENFORCEMENT OFFICER, FIREFIGHTER, EMERGENCY MEDICAL TECHNICIAN, OR PARAMEDIC WHO IS PAID FROM PUBLIC FUNDS.”**

**SECTION 3. (A) A PRIVATE EMPLOYER MAY NOT TERMINATE OR SUSPEND AN INDIVIDUAL WHO DOES NOT RECEIVE A COVID-19 VACCINATION.**

**(B) IF A PRIVATE EMPLOYER IS SUBJECT TO A FEDERAL VACCINE MANDATE, IT MAY ALLOW AN UNVACCINATED EMPLOYEE TO UNDERGO WEEKLY COVID-19 TESTING WITHOUT BEING SUBJECT TO THE FORFEITURE OF FEDERAL FUNDS.**

**(C) THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND THE MEDICAL UNIVERSITY OF SOUTH CAROLINA SHALL PARTNER WITH PRIVATE EMPLOYERS TO PROVIDE COVID-19 TESTING.**

**(D) FROM THE CONTINGENCY RESERVE FUND, THERE IS APPROPRIATED TEN MILLION DOLLARS TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND TEN MILLION DOLLARS TO THE MEDICAL UNIVERSITY OF SOUTH CAROLINA TO FUND COVID-19 TESTING FOR PRIVATE EMPLOYERS.**

**SECTION 4. ANY EMPLOYER WHO VIOLATES ANY PROVISION OF THIS ACT IS LIABLE IN A CIVIL ACTION FOR LOST WAGES SUFFERED BY AN EMPLOYEE AS A RESULT OF THE VIOLATION, AND AN EMPLOYEE DISCHARGED OR DEMOTED IN VIOLATION OF THIS ACT IS ENTITLED TO BE REINSTATED TO HIS FORMER POSITION. THE STATUTE OF LIMITATIONS FOR ACTIONS UNDER THIS ACT IS ONE YEAR.**

**SECTION 5. IF ANY SECTION, SUBSECTION, PARAGRAPH, SUBPARAGRAPH, SENTENCE, CLAUSE, PHRASE, OR WORD OF THIS ACT IS FOR ANY REASON HELD TO BE UNCONSTITUTIONAL OR INVALID, SUCH HOLDING SHALL NOT AFFECT THE CONSTITUTIONALITY OR VALIDITY OF THE REMAINING PORTIONS OF THIS ACT, THE GENERAL ASSEMBLY HEREBY DECLARING THAT IT WOULD HAVE PASSED THIS ACT, AND EACH AND EVERY SECTION, SUBSECTION, PARAGRAPH, SUBPARAGRAPH, SENTENCE, CLAUSE, PHRASE, AND WORD THEREOF, IRRESPECTIVE OF THE FACT THAT ANY ONE OR MORE OTHER SECTIONS, SUBSECTIONS, PARAGRAPHS, SUBPARAGRAPHS, SENTENCES, CLAUSES, PHRASES, OR WORDS HEREOF MAY BE DECLARED TO BE UNCONSTITUTIONAL, INVALID, OR OTHERWISE INEFFECTIVE.**

**SECTION 6. THIS ACT TAKES EFFECT UPON APPROVAL BY THE GOVERNOR. /**

**RENUMBER SECTIONS TO CONFORM.  
AMEND TITLE TO CONFORM.**

**South Carolina General Assembly**  
124th Session, 2021-2022

**H. 3126**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Jones, Burns, Chumley, Magnuson, Taylor, Haddon, Long, Forrest, McCabe, Oremus, Hill, M.M. Smith, Huggins, Wooten, Ballentine, Bustos, B. Cox, Elliott, Trantham, Willis, Nutt, Morgan, McCravy, Thayer, Dillard, V.S. Moss, Stringer, T. Moore, Allison, Hixon and Bennett

Document Path: I:\council\bill\sm\20129sa21.docx

Introduced in the House on January 12, 2021

Currently residing in the House Committee on **Ways and Means**

Summary: Mask mandates

**HISTORY OF LEGISLATIVE ACTIONS**

| <u>Date</u> | <u>Body</u> | <u>Action Description with journal page number</u>  |
|-------------|-------------|---|
| 12/9/2020   | House       | Prefiled  |
| 12/9/2020   | House       | Referred to Committee on <b>Ways and Means</b>  |
| 1/12/2021   | House       | Introduced and read first time ( <a href="#">House Journal-page 81</a> )  |
| 1/12/2021   | House       | Referred to Committee on <b>Ways and Means</b> ( <a href="#">House Journal-page 81</a> )  |
| 1/27/2021   | House       | Member(s) request name added as sponsor: Hill   |
| 12/6/2021   | House       | Member(s) request name added as sponsor: M.M.Smith, Huggins, Wooten, Ballentine, Bustos, B.Cox, Elliott, Trantham, Willis, Nutt, Morgan, McCravy, Thayer, Dillard, V.S.Moss, Stringer, T.Moore, Allison, Hixon, Bennett |

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**VERSIONS OF THIS BILL**

[12/9/2020](#)

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**A BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 11-1-130 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR THIS STATE OR ANY POLITICAL SUBDIVISION THEREOF TO ACCEPT ANY FEDERAL FUNDS TO ENFORCE AN UNLAWFUL FEDERAL MASK MANDATE OR UNLAWFUL FEDERAL VACCINE MANDATE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 11 of the 1976 Code is amended by adding:

“Section 11-1-130 (A) It is unlawful for this State, or any political subdivision thereof, to accept any federal funds to enforce an unlawful federal mask mandate or unlawful federal vaccine mandate.

(B) An ‘unlawful federal mask mandate’ means any federal law, order, rule, regulation, plan of action, or otherwise which requires a resident of the State of South Carolina to wear a face mask or other face covering to minimize the spread of COVID-19 or any other infectious disease. Any such unlawful federal mask mandate is invalid in this State and may not be recognized in this State and is null, void, and of no effect in this State and includes, but is not limited to:

(1) an executive order or proclamation of the President of the United States requiring residents of this State to wear a face mask or other face covering to minimize the spread of COVID-19 or any other infectious disease;

(2) a rule, regulation, or requirement promulgated or issued by a federal agency, or a subdivision of a federal agency, requiring



1 residents of this State to wear a face mask or other face covering to  
2 minimize the spread of COVID-19 or any other infectious disease  
3 including, but not limited to, rules, regulations, or requirements of  
4 the Centers for Disease Control and Prevention, the National  
5 Institutes of Health, the United States Department of Health and  
6 Human Services, the United States Department of Education, the  
7 Occupational Safety and Health Administration, the United States  
8 Department of Labor, the Food Safety and Inspection Service, and  
9 the United States Department of Agriculture;

10 (3) any order or other communication of any other federal  
11 political subdivision, such as a coronavirus or COVID-19 task force,  
12 requiring residents of this State to wear a face mask or other face  
13 covering to minimize the spread of COVID-19 or any other  
14 infectious disease; or

15 (4) a federal statute requiring residents of this State to wear a  
16 face mask or other face covering to minimize the spread of  
17 COVID-19 or any other infectious disease.

18 (C) An 'unlawful federal vaccine mandate' means federal law,  
19 order, rule, regulation, plan of action, or otherwise which requires a  
20 resident of the State of South Carolina to receive a vaccine to  
21 minimize the spread of COVID-19 or any other infectious disease.  
22 Any such unlawful federal vaccine mandate is invalid in this State  
23 and may not be recognized in this State and is null, void, and of no  
24 effect in this State and includes, but is not limited to:

25 (1) an executive order or proclamation of the President of the  
26 United States requiring residents of this State to receive a vaccine to  
27 minimize the spread of COVID-19 or any other infectious disease;

28 (2) a rule, regulation, or requirement promulgated or issued  
29 by a federal agency, or a subdivision of a federal agency, requiring  
30 residents of this State to receive a vaccine to minimize the spread of  
31 COVID-19 or any other infectious disease including, but not limited  
32 to, rules, regulations, or requirements of the Centers for Disease  
33 Control and Prevention, the National Institutes of Health, the United  
34 States Department of Health and Human Services, the United States  
35 Department of Education, the Occupational Safety and Health  
36 Administration, the United States Department of Labor, the Food  
37 Safety and Inspection Service, and the United States Department of  
38 Agriculture;

39 (3) any order or other communication of any other federal  
40 political subdivision, such as a coronavirus or COVID-19 task force,  
41 requiring residents of this State to receive a vaccine to minimize the  
42 spread of COVID-19 or any other infectious disease; or

1 (4) a federal statute requiring residents of this State to receive  
2 a vaccine to minimize the spread of COVID-19 or any other  
3 infectious disease.”

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5 SECTION 2. This act takes effect upon approval by the Governor.

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