

RÉSUMÉ DIGEST

HB 498

2021 Regular Session

Edmonston

Proposed law would have prohibited a state or local government official or agency from distinguishing between individuals based on whether a person has or has not received a vaccine targeting COVID-19 or SARS-COV2 while an Emergency Use Authorization is effective for such vaccines. Would have provided examples of discrimination that was prohibited.

Proposed law would have provided exceptions applicable to providing medical services in a licensed healthcare facility.

Proposed law would have provided an exception for present law immunization requirements for students, except for vaccines targeting COVID-19 or SARS-COV2 while an Emergency Use Authorization was effective for such vaccines.

Proposed law would have allowed any person to commence a suit for the issuance of a writ of mandamus or injunctive or declaratory relief to require compliance with the provisions of proposed law, together with reasonable attorney fees and costs.

(Proposed to add R.S. 49:186)

VETO MESSAGE:

"This bill is an attempt to respond to concerns by some legislators and members of the public around the COVID-19 vaccines. While questions about the safety and efficacy of any vaccines are understandable, a few bills passed the legislature which undermine the faith of the public in the COVID-19 vaccines. House Bill 498 is one of them. This is unfortunate and dangerous. No public official should contribute to the false narrative that the COVID-19 vaccines are anything other than safe and incredibly effective. This is especially true as the B.1.617.2 "Delta" variant of COVID-19, which is perhaps more transmissible and deadly than prior variants, threatens to become the predominant strain in the United States.

Current state law already provides for vaccine requirements for elementary and secondary schools, colleges, universities, proprietary schools, vocational schools, and licensed day care centers that are based on expert medical advice and schedules put together by the Louisiana Department of Health. See La. R.S. 17:170 et seq. Current law also provides for exceptions to those requirements for medical or other personal reasons. This reasonable approach to vaccine requirements has been in current law without significant controversy for decades. The same exceptions in current law should apply to any possible COVID-19 vaccine requirements.

Lastly, the bill attempts to create a back door through which vaccine requirements could be put in place "if the application for use of such a vaccine has been approved by the secretary of the United States Food and Drug Administration." This appears to be a way of allowing vaccine requirements if the vaccine has obtained full approval of the FDA and is no longer under an Emergency Use Authorization. However, there are significant problems with the language. First, it is not "the secretary" who grants approval. In fact, the FDA does not even have a secretary, it has a Commissioner. It is unclear whether the inclusion of this language was intentional or accidental. Further, when a vaccine is given approval, it is done so by the FDA, not by the Commissioner's (or secretary's) personal approval. Secondly, the language also describes "a vaccine" being given full approval, as if only a singular vaccine is subject to these requirements. That is not the case. The bill thus presents several unanswered questions about what happens if one vaccine receives full authorization while others have yet to receive it. This does not appear to be contemplated by the bill even though it is almost certain to occur. This bill is unworkable and would lead to further mistrust of the safety of the COVID-19 vaccines. It should not become law."