

117TH CONGRESS
2D SESSION

S. 4172

To amend the National Defense Authorization Act for Fiscal Year 2022 to modify the limitation on discharge of members of the Armed Forces solely on the basis of failure to obey a lawful order to receive a vaccine for COVID–19, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 10, 2022

Mr. CRUZ (for himself, Mr. RUBIO, Mr. HAWLEY, Mr. MARSHALL, Mr. SCOTT of Florida, Mr. JOHNSON, Mr. CRAPO, Mr. CRAMER, Mr. PAUL, Mr. HOEVEN, Mr. LANKFORD, Mr. RISCH, Mr. BRAUN, and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend the National Defense Authorization Act for Fiscal Year 2022 to modify the limitation on discharge of members of the Armed Forces solely on the basis of failure to obey a lawful order to receive a vaccine for COVID–19, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Allowing Military Ex-
5 emptions, Recognizing Individual Concerns About New
6 Shots Act of 2022” or the “AMERICANS Act”.

1 **SEC. 2. MODIFICATION OF LIMITATION ON ACTIONS BASED**
 2 **SOLELY ON FAILURE TO OBEY AN ORDER TO**
 3 **RECEIVE A VACCINE FOR COVID-19.**

4 Section 736 of the National Defense Authorization
 5 Act for Fiscal Year 2022 (Public Law 117–81) is amend-
 6 ed—

7 (1) by amending the section heading to read as
 8 follows: “**LIMITATIONS ON PUNISHMENT SOLELY**
 9 **ON BASIS OF FAILURE TO OBEY ORDER TO RE-**
 10 **CEIVE COVID-19 VACCINE**”;

11 (2) in subsection (a)—

12 (A) by striking “a lawful” and inserting
 13 “an”; and

14 (B) by striking “shall be” and all that fol-
 15 lows through the period at the end and insert-
 16 ing “shall be an honorable discharge”;

17 (3) by redesignating subsection (b) as sub-
 18 section (f);

19 (4) by inserting after subsection (a) the fol-
 20 lowing new subsections:

21 “(b) **PROHIBITION ON ADVERSE ACTION.**—The Sec-
 22 retary of Defense may not take any adverse action against
 23 a covered member based solely on the refusal of such
 24 member to receive a vaccine for COVID-19.

25 “(c) **REMEDIES AVAILABLE FOR A COVERED MEM-**
 26 **BER DISCHARGED OR PUNISHED BASED ON COVID-19**

1 STATUS.—At the election of a covered member and upon
2 application through a process established by the Secretary
3 of Defense, the Secretary shall—

4 “(1) adjust to ‘honorable discharge’ the status
5 of the member if—

6 “(A) the member was separated from the
7 Armed Forces based solely on the failure of the
8 member to obey an order to receive a vaccine
9 for COVID–19; and

10 “(B) the discharge status of the member
11 would have been an ‘honorable discharge’ but
12 for the refusal to obtain such vaccine;

13 “(2) reinstate the member at the grade held by
14 the member immediately prior to the involuntary
15 separation of the member;

16 “(3) expunge from the service record of the
17 member any reference to any adverse action based
18 solely on COVID–19 status, including involuntary
19 separation; and

20 “(4) include the time of involuntary separation
21 of the member reinstated under paragraph (2) in the
22 computation of the retired or retainer pay of the
23 member.

24 “(d) ATTEMPT TO AVOID DISCHARGE.—The Sec-
25 retary of Defense shall—

1 “(1) make every effort to retain members of the
2 Armed Forces who are not vaccinated against
3 COVID–19;

4 “(2) create an exemption to the requirement
5 that members of the Armed Forces be vaccinated
6 against COVID–19 for such members with natural
7 immunity; and

8 “(3) recognize an exemption to the requirement
9 that members of the Armed Forces be vaccinated
10 against COVID–19 based on an underlying health
11 condition or the sincerely held religious beliefs of an
12 individual member.

13 “(e) REPORT ON RELIGIOUS EXEMPTIONS TO
14 COVID–19 VACCINE.—Not later than 90 days after the
15 date of the enactment of the Allowing Military Exemp-
16 tions, Recognizing Individual Concerns About New Shots
17 Act of 2022, the Secretary of Defense shall submit to Con-
18 gress a report on the number of religious exemptions sub-
19 mitted by members of Armed Forces for the requirement
20 that such members be vaccinated against COVID–19,
21 which shall include how many were approved and how
22 many denied, disaggregated by religious denomination.”;
23 and

24 (5) in subsection (f), as redesignated by para-
25 graph (3)—

1 (A) by redesignating paragraphs (1) and
2 (2) as paragraphs (2) and (3), respectively;

3 (B) inserting before paragraph (2) the fol-
4 lowing new paragraph (1):

5 “(1) The term ‘adverse action’ includes dis-
6 charge, punishment, retaliation, disparate treatment,
7 a requirement to wear a mask, or a requirement to
8 reside in sub-standard housing or endure sub-stand-
9 ard conditions.”; and

10 (C) in paragraph (3), as redesignated by
11 subparagraph (A)—

12 (i) by striking “means a member” and
13 inserting “means—
14 “(A) a member”;

15 (ii) in subparagraph (A), as des-
16 ignated by clause (i), by striking the period
17 at the end and insert a semicolon; and

18 (iii) by adding at the end the fol-
19 lowing new subparagraphs:

20 “(B) an individual enrolled at a military
21 service academy; or

22 “(C) an individual enrolled in the Junior
23 Reserve Officers’ Training Corps (JROTC) or

- 1 Senior Reserve Officers' Training Corps
- 2 (SROTC) program.”.

