

Employment & Labor Alert



New Employment Laws Brewing in Oklahoma: *COVID-19 Vaccines, Servicemember Rights, and Workers' Comp.*

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The new year has ushered in a flurry of new bills now pending at various stages of development within the Oklahoma Legislature. Three among them are particularly notable:

- (1) [Senate Bill 765](#), which prohibits requiring COVID-19 vaccination as a condition of employment,
- (2) [House Bill 2545](#), entitled the Oklahoma Uniformed Services Employment and Reemployment Rights Act, and
- (3) [Senate Bill 324](#), which clarifies the applicability of the Administrative Workers' Compensation Act.

SB 765 - Can't Condition Employment on a COVID Vaccine

Senate Bill 765, introduced on January 25 by Senator David Bullard (R), would amend Oklahoma's labor law to make it unlawful for any person "to require any employee or applicant for employment, as a condition of employment or continued employment, to submit to or take any vaccination, injection, shot or medication for any virus, disease or condition." It would also provide that any person *recommending* an employee or applicant take a vaccination "shall offer such vaccination, ... at no cost to the employee or applicant for employment" and "shall be prohibited from seeking any payment, either directly or indirectly, for any part of the cost of such vaccination ... from the employee or applicant for employment or their insurance provider."

Senate Bill 765 contains a trap for the unwary employer: for a vaccination to be deemed "voluntary," the employee or applicant must have "first received, read, and signed a written statement explaining the person's right to refuse [the vaccination] without retaliation or discrimination and the right to read a detailed explanation of the side effects and contraindications of such vaccination." If signed into law, a violation of these rules would constitute a misdemeanor, punishable by a fine of up to \$100 per occurrence.

Gable's Labor & Employment team are hosting a webinar on What Employers Need to Know About the COVID-19 Vaccination on February 24 at 2 pm. To register, [click here](#).

HB 2545 - State Military Antidiscrimination and Reemployment Rights

House Bill 2545, introduced on January 21 by Representative Chris Kannady (R), would provide new protections to members of the state military forces serving on state active duty. It is designed to encourage non-career service in state military forces by minimizing

“disadvantages to civilian careers and employment which can result from such service” and “disruption to the lives of persons performing service” by “providing for the prompt re-employment of such persons upon their completion of service.” To this end, the Bill would prohibit discrimination against persons because of their service in state military forces in a manner similar to existing protections found under federal law. If signed into law, such discrimination would give rise to a cause of action for which the complainant could be awarded monetary damages.

SB 324 – Protection Against “Substantial Certainty” Tort Claims

Lastly, Senate Bill 324, introduced on January 8 by Senator Julie Daniels (R), would amend Oklahoma’s Administrative Workers’ Compensation Act to clarify the Act’s applicability and the exclusivity of the Act’s remedy. To that end, Senate Bill 3324 would change the definition of “[c]ompensable injury” to include harm of which a major cause is “the employer’s knowledge that injury was substantially certain to result from the employer’s conduct.” It would also provide that “[t]he employer’s knowledge that the injury was substantially certain to result from the employer’s conduct shall not constitute an intentional tort for the purposes of application of exclusive remedy under the Administrative Workers’ Compensation Act.” The bill may be in response to the 2019 case of *Wells Oklahoma Roofing & Sheet Metal, L.L.C.*, where the Oklahoma Supreme Court declined to apply the exclusivity provision of Oklahoma’s Administrative Workers’ Compensation Act to the “substantially certain” variety of intentional torts. If signed into law, employers would presumably enjoy greater protection from liability where an employee has already received workers’ compensation, though it remains to be seen whether such a law could survive a constitutional attack.

GableGotwals is experienced in helping employers take the steps necessary to comply with labor and employment matters, including auditing and updating compliant policies and procedures, training managers and supervisors, and providing real-time guidance to decision-makers to help minimize risk of costly claims. Our team of attorneys also defend employers in labor and employment disputes before all federal and state courts and agencies, and in arbitration proceedings. We are available to help you navigate state and federal employment laws and regulations as they emerge. Please contact any [GableGotwals Labor & Employment attorney](#) for assistance.



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