

117TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

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.

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IN THE SENATE OF THE UNITED STATES

\_\_\_\_\_, (legislative day, \_\_\_\_\_), \_\_\_\_\_  
Mr. CRUZ introduced the following bill; which was read twice and referred to  
the Committee on \_\_\_\_\_

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## 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  
24 Senior Reserve Officers’ Training Corps  
25 (SROTC) program.”.