

118TH CONGRESS
1ST SESSION

H. R. 434

To establish certain protections for a member of the Armed Forces, or a cadet or midshipman at a military service academy, who refuses to receive a vaccination against COVID–19.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 20, 2023

Mr. ROY (for himself, Mr. DAVIDSON, Mr. DUNCAN, Mr. POSEY, Ms. TENNEY, Mr. CLOUD, Mr. SELF, Mr. GOSAR, Mrs. MILLER of Illinois, Mr. CRAWFORD, Mr. BIGGS, Mr. OGLES, Mr. MOORE of Alabama, and Mr. BABIN) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To establish certain protections for a member of the Armed Forces, or a cadet or midshipman at a military service academy, who refuses to receive a vaccination against COVID–19.

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 “Service Restoration
5 Act”.

1 **SEC. 2. CERTAIN PROTECTIONS FOR A MEMBER OF THE**
2 **ARMED FORCES, OR A CADET OR MID-**
3 **SHIPMAN AT A MILITARY SERVICE ACADEMY,**
4 **WHO REFUSES TO RECEIVE A VACCINATION**
5 **AGAINST COVID-19.**

6 (a) PROHIBITIONS.—

7 (1) VACCINE MANDATE.—No Federal funds
8 may be used to require a member of the Armed
9 Forces, or a cadet or midshipman at a military serv-
10 ice academy, to receive a vaccination against
11 COVID-19.

12 (2) ADVERSE ACTION.—No member of the
13 Armed Forces, or cadet or midshipman at a military
14 service academy, may be subject to adverse action
15 solely on the basis of the refusal of such member,
16 cadet, or midshipman to receive a vaccination
17 against COVID-19.

18 (b) REINSTATEMENT.—At the request of a covered
19 individual, the Secretary concerned shall—

20 (1) reinstate the covered individual as a mem-
21 ber of the Armed Force concerned, in the same rank
22 and grade the covered individual held at the time of
23 separation from the Armed Force concerned;

24 (2) expunge from the military service record of
25 the covered individual any reference to adverse ac-
26 tion against the covered individual solely on the

1 basis of the refusal of the covered individual to re-
2 ceive a vaccination against COVID–19; and

3 (3) include, in the computation of the retired or
4 retainer pay of such covered individual, the period
5 between the involuntary separation and the rein-
6 statement, under paragraph (1), of the covered indi-
7 vidual.

8 (c) MANDATORY CHARACTERIZATION OF DIS-
9 CHARGE.—

10 (1) PROSPECTIVE CHARACTERIZATIONS.—Sub-
11 section (a) of section 736 of the National Defense
12 Authorization Act for Fiscal Year 2022 (Public Law
13 117–81; 10 U.S.C. 1161 note), as amended by sec-
14 tion 525 of the James M. Inhofe National Defense
15 Authorization Act for Fiscal Year 2023 (Public Law
16 117–263), is further amended by striking “shall
17 be—” and all that follows and inserting “shall be an
18 honorable discharge”.

19 (2) RETROACTIVE CHARACTERIZATIONS.—The
20 Secretary concerned shall ensure that the character-
21 ization of the discharge of a covered individual that
22 occurred before the date of the enactment of this
23 Act is characterized as honorable.

24 (d) DEFINITIONS.—In this section:

1 (1) The term “adverse action” includes the fol-
2 lowing:

3 (A) Involuntary separation.

4 (B) Demotion.

5 (C) Discipline.

6 (D) Retaliation.

7 (E) Disparate treatment.

8 (F) A requirement to wear a mask, reside
9 in substandard housing, or endure substandard
10 conditions.

11 (G) Travel restrictions.

12 (H) Deployment restrictions.

13 (2) The term “covered individual” means an in-
14 dividual who was involuntarily separated from an
15 Armed Force solely on the basis of the refusal of
16 such individual to receive a vaccination against
17 COVID–19.

18 (3) The term “military service academy” means
19 the following:

20 (A) The United States Military Academy.

21 (B) The United States Naval Academy.

22 (C) The United States Air Force Academy.

23 (D) The United States Coast Guard Acad-
24 emy.

1 (4) The term “Secretary concerned” has the
2 meaning given such term in section 101 of title 10,
3 United States Code.

○