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STATE REPRESENTATIVE • 70TH ASSEMBLY DISTRICT

TO: Honorable Members of the Assembly Committee on Labor and Integrated Employment

FROM: State Representative Nancy VanderMeer

DATE: February 16, 2022

SUBJECT: Testimony in Support of Assembly Bill 725

Thank you for the opportunity to be here today and the chance for a hearing on this proposal. On September 9th of this year, President Biden announced that the Department of Labor's Occupational Safety and Health Administration (OSHA) was developing an emergency temporary standard directed at private sector businesses with 100 or more employees. That rule would have required that employers with 100 or more employees mandate that their workers be vaccinated for COVID-19 or undergo weekly COVID-19 testing. The rule was estimated to have an impact on over 80 million workers throughout the country.

A non-compete agreement is a legal agreement or clause in a contract specifying that an employee must not enter into competition with an employer after the employment period is over. Many contracts specify a certain length of time when the employee is barred from working with a competitor after they end employment. Employers may require employees to sign non-compete agreements to keep their place in the market. Those required to sign these agreements can include employees, contractors, or consultants.

AB 725 would make the restrictions in a non-compete agreement for an employee to not compete with his or her employer or principal after termination within a specified territory and during a specified time illegal if an employee is terminated from employment by an employer with 100 or more employees for choosing not to receive a COVID-19 vaccine, or for refusing to provide information regarding the individual's COVID-19 vaccination status. This would include: an employee entering into a non-compete agreement after the effective date of the bill or any modifications or revisions to an existing non-compete agreement after the effective date of the bill.

Even though the United States Supreme Court blocked the Biden Administration's unconstitutional mandate a few weeks ago, we believe this legislation still has utility to help to preclude Wisconsin workers from being punished by future overreach from the federal government. Unfortunately, at the state level, we're somewhat limited in regard to how we can push back against federal overreach, however, non-compete agreements are one way that we can preserve the freedom of our workers to provide for themselves and their families, and Senator Nass and I are respectfully asking for your support to move this legislation forward.



AB 725 Voiding Restrictions in Non-Compete Agreements if Separation is the Result of Covid-19 Vaccination Status

Testimony of Senator Steve Nass
Assembly Committee on Labor & Integrated Employment
February 16, 2022 • 415 Northwest, State Capitol

Thank you Chairman and committee members for allowing me to provide testimony in support of AB 725. This bill will help protect workers who are terminated because of a refusal to receive the Covid-19 vaccine by voiding restrictions in a non-compete agreement if the separation is the result of an employee's vaccination status.

A non-compete agreement is a legal agreement or contract clause specifying that an employee not compete with their employer during their term of employment, or after the termination of that employment within a specified territory and during a specified period of time. Under AB 725, a non-compete agreement after termination of employment is considered an unreasonable restraint and is considered illegal, void, and unenforceable if the employee is terminated from employment for choosing not to receive the Covid-19 vaccine, or for refusing to provide information regarding the individual's vaccination status.

AB 725 applies to employers that employ at least 100 employees and to an employee entering into a non-compete agreement after the effective date of the bill or any modifications or revisions to an existing non-compete agreement after the effective date of this bill. The purpose of the bill is to prevent unnecessary and artificially imposed barriers to workers being able to make a living solely as the result of their choice to not receive a Covid-19 vaccine.

While the U.S. Supreme Court struck down the Biden administration's attempt to impose a vaccine mandate on workers in companies that employ 100 or more people through OSHA rules on January 13, 2022, losing employment as a result of vaccination status is still a very real fear for many Wisconsin residents. In addition, the court allowed a vaccine mandate to stand for workers employed by medical facilities that take Medicare or Medicaid payments.

"In God We Trust"

Thank you for the opportunity to provide testimony in support of AB 725. This bill will help to protect workers from arbitrary restraints being placed on their ability to earn a living and provide for their families. The Senate companion bill passed the State Senate earlier this week. I am happy to answer further questions of committee members on this legislation.