

AMENDMENT TO RULES COMMITTEE PRINT 118-

10

OFFERED BY MR. BISHOP OF NORTH CAROLINA

Strike sections 525, 526, and 527 and insert the following:

1 **SEC. 5__.** **REMEDIES FOR MEMBERS OF THE ARMED**
2 **FORCES DISCHARGED OR SUBJECT TO AD-**
3 **VERSE ACTION UNDER THE COVID-19 VAC-**
4 **CINE MANDATE.**

5 (a) **LIMITATION ON IMPOSITION OF NEW MAN-**
6 **DATE.**—The Secretary of Defense may not issue any
7 COVID-19 vaccine mandate as a replacement for the
8 mandate rescinded under section 525 of the James M.
9 Inhofe National Defense Authorization Act for Fiscal Year
10 2023 absent a further Act of Congress expressly author-
11 izing a replacement mandate.

12 (b) **REMEDIES.**—Section 736 of the National Defense
13 Authorization Act for Fiscal Year 2022 (Public Law 117-
14 81; 10 U.S.C. 1161 note prec.) is amended—

15 (1) in the section heading, by striking “**TO**
16 **OBEY LAWFUL ORDER TO RECEIVE**” and insert-
17 ing “**TO RECEIVE**”;

18 (2) in subsection (a)—

1 (A) by striking “a lawful order” and in-
2 serting “an order”; and

3 (B) by striking “shall be” and all that fol-
4 lows through the period at the end and insert-
5 ing “shall be an honorable discharge.”;

6 (3) by redesignating subsection (b) as sub-
7 section (e); and

8 (4) by inserting after subsection (a) the fol-
9 lowing new subsections:

10 “(b) PROHIBITION ON ADVERSE ACTION.—The Sec-
11 retary of Defense may not take any adverse action against
12 a covered member based solely on the refusal of such
13 member to receive a vaccine for COVID–19.

14 “(c) REMEDIES AVAILABLE FOR A COVERED MEM-
15 BER DISCHARGED OR SUBJECT TO ADVERSE ACTION
16 BASED ON COVID–19 STATUS.—At the election of a cov-
17 ered member discharged or subject to adverse action based
18 on the member’s COVID–19 vaccination status, and upon
19 application through a process established by the Secretary
20 of Defense, the Secretary shall—

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

23 “(A) the member was separated from the
24 Armed Forces based solely on the failure of the

1 member to obey an order to receive a vaccine
2 for COVID–19; and

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

6 “(2) reinstate the member to service at the
7 highest grade held by the member immediately prior
8 to the involuntary separation, allowing, however, for
9 any reduction in rank that was not related to the
10 member’s COVID–19 vaccination status, with an ef-
11 fective date of reinstatement as of the date of invol-
12 untary separation;

13 “(3) for any member who was subject to any
14 adverse action other than involuntary separation
15 based solely on the member’s COVID–19 vaccination
16 status—

17 “(A) restore the member to the highest
18 grade held prior to such adverse action, allow-
19 ing, however, for any reduction in rank that
20 was not related to the member’s COVID–19
21 vaccination status, with an effective date of re-
22 instatement as of the date of involuntary sepa-
23 ration; and

1 “(B) compensate such member for any pay
2 and benefits lost as a result of such adverse ac-
3 tion;

4 “(4) expunge from the service record of the
5 member any adverse action, to include non-punitive
6 adverse action and involuntary separation, as well as
7 any reference to any such adverse action, based sole-
8 ly on COVID–19 vaccination status; and

9 “(5) include the time of involuntary separation
10 of the member reinstated under paragraph (2) in the
11 computation of the retired or retainer pay of the
12 member.

13 “(d) RETENTION AND DEVELOPMENT OF
14 UNVACCINATED MEMBERS.—The Secretary of Defense
15 shall—

16 “(1) make every effort to retain covered mem-
17 bers who are not vaccinated against COVID–19 and
18 provide such members with professional develop-
19 ment, promotion and leadership opportunities, and
20 consideration equal to that of their peers;

21 “(2) only consider the COVID–19 vaccination
22 status of a covered member in making deployment,
23 assignment, and other operational decisions where—

24 “(A) the law or regulations of a foreign
25 country require covered members to be vac-

1 inated against COVID–19 in order to enter
2 that country; and

3 “(B) the covered member’s presence in
4 that foreign country is necessary in order to
5 perform their assigned role; and

6 “(3) for purposes of deployments, assignments,
7 and operations described in paragraph (2), create a
8 process to provide COVID–19 vaccination exemp-
9 tions to covered members with—

10 “(A) a natural immunity to COVID–19;

11 “(B) an underlying health condition that
12 would make COVID–19 vaccination a greater
13 risk to that individual than the general popu-
14 lation; or

15 “(C) sincerely held religious beliefs in con-
16 flict with receiving the COVID–19 vaccination.

17 “(e) APPLICABILITY OF REMEDIES CONTAINED IN
18 THIS SECTION.—The prohibitions and remedies described
19 in this section shall apply to covered members regardless
20 of whether or not they sought an accommodation to any
21 Department of Defense COVID–19 vaccination policy on
22 any grounds.”.

