

119TH CONGRESS  
1ST SESSION

# S. 117

To provide remedies to members of the Armed Forces discharged or subject to adverse action under the COVID–19 vaccine mandate.

---

## IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2025

Mr. CRUZ (for himself, Mrs. BLACKBURN, Mrs. BRITT, Mr. BUDD, Mr. CORNYN, Mr. CRAPO, Mr. DAINES, Mr. HAWLEY, Mr. HOEVEN, Mr. LEE, Mr. RISCH, Mr. SCOTT of Florida, Mr. SHEEHY, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Armed Services

---

## A BILL

To provide remedies to members of the Armed Forces discharged or subject to adverse action under the COVID–19 vaccine mandate.

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 2025” or the “AMERICANS Act”.

1 **SEC. 2. REMEDIES FOR MEMBERS OF THE ARMED FORCES**  
 2 **DISCHARGED OR SUBJECT TO ADVERSE AC-**  
 3 **TION UNDER THE COVID-19 VACCINE MAN-**  
 4 **DATE.**

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 8 mandate rescinded under section 525 of the James M.  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)—

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

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

24 (3) by redesignating subsection (b) as sub-  
 25 section (g); and

1           (4) by inserting after subsection (a) the fol-  
 2           lowing new subsections:

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

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

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

16                         “(A) the member was separated from the  
 17                         Armed Forces based solely on the failure of the  
 18                         member to obey an order to receive a vaccine  
 19                         for COVID–19; and

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

23                 “(2) reinstate the member to service at the  
 24                 highest grade held by the member immediately prior  
 25                 to the involuntary separation, allowing, however, for

1 any reduction in rank that was not related to the  
2 member's COVID-19 vaccination status, with an ef-  
3 fective date of reinstatement as of the date of invol-  
4 untary separation;

5 “(3) for any member who was subject to any  
6 adverse action other than involuntary separation  
7 based solely on the member's COVID-19 vaccination  
8 status—

9 “(A) restore the member to the highest  
10 grade held prior to such adverse action, allow-  
11 ing, however, for any reduction in rank that  
12 was not related to the member's COVID-19  
13 vaccination status, with an effective date of re-  
14 instatement as of the date of involuntary sepa-  
15 ration; and

16 “(B) compensate such member for any pay  
17 and benefits lost as a result of such adverse ac-  
18 tion;

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

24 “(5) include the time of involuntary separation  
25 of the member reinstated under paragraph (2) in the

1 computation of the retired or retainer pay of the  
2 member.

3 “(d) RETENTION AND DEVELOPMENT OF  
4 UNVACCINATED MEMBERS.—The Secretary of Defense  
5 shall—

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

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

14 “(A) the law or regulations of a foreign  
15 country require covered members to be vac-  
16 cinated against COVID–19 in order to enter  
17 that country; and

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

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

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

1 “(B) an underlying health condition that  
2 would make COVID–19 vaccination a greater  
3 risk to that individual than the general popu-  
4 lation; or

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

7 “(e) TERMINATION OF OBLIGATION TO REPAY BO-  
8 NUSES OF MEMBERS SEPARATED FOR REFUSING COVID–  
9 19 VACCINE.—

10 “(1) IN GENERAL.—A former member of the  
11 Armed Forces who was separated from the Armed  
12 Forces because the former member refused to obtain  
13 a COVID–19 vaccine shall be released for any obli-  
14 gation to repay any bonus received by the former  
15 member.

16 “(2) REIMBURSEMENT OF REPAYMENTS.—A  
17 former member of the Armed Forces described in  
18 subsection (a) who, before the date of the enactment  
19 of this Act, repaid any portion of a bonus described  
20 in that subsection shall be reimbursed for such re-  
21 payment.

22 “(f) APPLICABILITY OF REMEDIES CONTAINED IN  
23 THIS SECTION.—The prohibitions and remedies described  
24 in this section shall apply to covered members regardless  
25 of whether or not they sought an accommodation to any

- 1 Department of Defense COVID–19 vaccination policy on
- 2 any grounds.”.

