

1 HOUSE BILL NO. 702

2 INTRODUCED BY J. CARLSON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING DISCRIMINATION BASED ON A PERSON'S
5 VACCINATION STATUS OR POSSESSION OF AN IMMUNITY PASSPORT; PROVIDING AN
6 APPROPRIATION; AND PROVIDING EFFECTIVE DATES."

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8 WHEREAS, as stated in section 50-16-502, MCA, the Legislature finds that "health care information is
9 personal and sensitive information that if improperly used or released may do significant harm to a patient's
10 interests in privacy and health care or other interests"; and

11 WHEREAS, the Montana Supreme Court in *State v. Nelson*, 283 Mont. 231, 941 P.2d 441 (1997),
12 concluded that "medical records fall within the zone of privacy protected by Article II, section 10, of the Montana
13 Constitution" and "are quintessentially private and deserve the utmost constitutional protection".

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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17 **NEW SECTION. Section 1. Discrimination based on vaccination status or possession of**
18 **immunity passport prohibited -- definitions.** (1) It is an unlawful discriminatory practice for:

19 (a) a person or a government entity to refuse, withhold from, or deny to a person any local or state
20 services, goods, facilities, advantages, privileges, licensing, educational opportunities, health care access, or
21 employment opportunities based on the person's vaccination status or whether the person has an immunity
22 passport;

23 (b) an employer to refuse employment to a person, to bar a person from employment, or to
24 discriminate against a person in compensation or in a term, condition, or privilege of employment based on the
25 person's vaccination status or whether the person has an immunity passport; or

26 (c) a public accommodation to exclude, limit, segregate, refuse to serve, or otherwise discriminate
27 against a person based on the person's vaccination status or whether the person has an immunity passport.

28 (2) A government entity or an employer does not unlawfully discriminate in violation of this section if

1 any vaccination policy set forth by the government entity or the employer includes exemptions for a person to
2 decline to be vaccinated based on medical or religious grounds.

3 (3) As used in this section, the following definitions apply:

4 (a) "Immunity passport" means a document, digital record, or software application indicating that a
5 person is immune to a disease, either through vaccination or infection and recovery.

6 (b) "Vaccination status" means an indication of whether a person has received one or more doses of
7 a vaccine.

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9 **NEW SECTION. Section 2. Appropriation.** There is appropriated \$200 from the general fund to the
10 department of labor and industry for the biennium beginning July 1, 2021, for the purposes of:

11 (1) notifying local boards of health of the requirements of [section 1] and requiring local boards of
12 health to prominently display notice of the requirements of [section 1] on the home page of their website, if
13 available, for at least 6 months after [the effective date of this act]; and

14 (2) requiring the department of public health and human services to prominently display notice of the
15 requirements of [section 1] on the home page of the department's website for at least 6 months after [the
16 effective date of this act].

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18 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
19 integral part of Title 49, chapter 2, part 3, and the provisions of Title 49, chapter 2, part 3, apply to [section 1].

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21 **NEW SECTION. Section 4. Severability.** If a part of [this act] is invalid, all valid parts that are
22 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
23 the part remains in effect in all valid applications that are severable from the invalid applications.

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25 **NEW SECTION. Section 5. Effective date.** (1) Except as provided in subsection (2), [this act] is
26 effective on passage and approval.

27 (2) [Section 2] is effective July 1, 2021.

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