

HOUSE BILL 2452

By Weaver

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 14; Title 39; Title 50; Title 63 and Title 68,
relative to medical discrimination.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 21, is amended by adding
the following as a new part:

4-21-1101. Part definitions.

As used in this part:

(1) "Assisted-care living facility" has the same meaning as defined in §
68-11-201;

(2) "Discriminatory practice" means a direct or indirect act or practice of
exclusion, distinction, restriction, segregation, limitation, refusal, denial, or other
act or practice of differentiation or preference in the treatment of an individual
based on the individual's vaccination status, the individual's immunity status, or
whether the individual has an immunity passport;

(3) "Employer" means:

(A) This state or a political or civil subdivision of this state;

(B) A person employing any number of individuals within this

state; or

(C) A person acting as an agent of an employer, directly or indirectly;

(4) "Healthcare facility" means:

(A) A facility as defined in § 68-11-201; or

(B) A facility licensed under title 33;

(5) "Immunity passport" means a document, test result, digital record, or software application indicating that an individual has immunity to a communicable disease, through vaccination or infection and recovery;

(6) "Immunity status" means the ability of an individual's body to demonstrate an immune response or to defend itself against a communicable disease;

(7) "Nursing home" has the same meaning as defined in § 68-11-201;

(8) "Person" includes governments, governmental agencies, public authorities, labor organizations, corporations, legal representatives, partnerships, associations, trustees, trustees in bankruptcy, receivers, mutual companies, joint stock companies, trusts, unincorporated organizations, or other organized groups of individuals or entities;

(9) "Places of public accommodation, resort, or amusement":

(A) Includes a place, store, or other establishment, either licensed or unlicensed, that supplies goods or services to the general public or that solicits or accepts the patronage or trade of the general public, or that is supported directly or indirectly by government funds; and

(B) Does not include a bona fide private club if:

(i) The club's policies are determined solely by its members; and

(ii) The club's facilities or services are available only to the club's members and the members' bona fide guests;

(10) "Public employee" means an individual holding a position by appointment or employment in the service of a public employer;

(11) "Public officer" means an individual who is elected or appointed to serve or represent a public agency or governmental entity, other than an employee or independent contractor of a public agency or governmental entity; and

(12) "Vaccination status" means an indication of whether an individual has received one (1) or more doses of a vaccine.

4-21-1102. Discrimination based on vaccination status, immunity status, or possession of immunity passport prohibited.

(a) Except as provided in subsection (b), it is an unlawful discriminatory practice for:

(1) An individual, public officer, public employee, governmental entity, or other person to refuse, withhold from, or deny to an individual a service, good, facility, access, advantage, privilege, financial aid or benefit, credit, insurance, license, healthcare access, educational opportunity, or employment opportunity based on the individual's vaccination status, the individual's immunity status, or whether the individual has an immunity passport;

(2) An employer to refuse employment to an individual, to bar an individual from employment, or to discriminate against an individual in compensation, terms, conditions, locations, rights, immunities, promotions, or privileges of employment based on the individual's vaccination status, the

individual's immunity status, or whether the individual has an immunity passport;
or

(3) A place of public accommodation, resort, or amusement to exclude, limit, segregate, refuse to serve, or otherwise discriminate against an individual based on the individual's vaccination status, the individual's immunity status, or whether the individual has an immunity passport.

(b) Notwithstanding an individual's inability to provide vaccination status, immunity status, or an immunity passport due to sincerely held religious beliefs, this section does not apply to vaccination requirements set forth for the following:

(1) A public school pursuant to title 49; or

(2) A private school, nursery school, preschool, or child care facility.

(c) Notwithstanding an executive order made during a declared emergency under the authority of § 58-2-107 or subsection (d), it is an unlawful discriminatory practice for an individual, governmental entity, or employer to require the testing of an individual for a communicable disease who is by a reasonable standard showing no known or perceivable symptoms of a communicable disease.

(d)

(1) An individual, governmental entity, or employer does not unlawfully discriminate under this section if the individual, entity, or employer recommends that an employee receive a vaccine.

(2) A healthcare facility, nursing home, or assisted-care living facility does not unlawfully discriminate under this section if the healthcare facility, nursing home, or assisted-care living facility:

(A) Asks an employee to voluntarily provide the employee's vaccination status, immunity status, or immunity passport for the purpose

of determining whether the healthcare facility, nursing home, or assisted-care living facility should implement reasonable accommodation measures to protect the safety and health of employees, patients, visitors, and other individuals from communicable diseases. A healthcare facility, nursing home, or assisted-care living facility may consider an employee to be nonvaccinated or nonimmune to a communicable disease if the employee declines to provide the employee's vaccination status, immunity status, or immunity passport to the healthcare facility, nursing home, or assisted-care living facility for purposes of determining whether reasonable accommodation measures should be implemented; and

(B) Implements reasonable accommodation measures for employees, patients, visitors, and other individuals who are not vaccinated or not immune to a communicable disease to protect the safety and health of employees, patients, visitors, and other individuals from a communicable disease.

4-21-1103. Remedies.

An individual injured as a result of a violation of this part may file a complaint with the human rights commission and is entitled to remedies set forth by part 3 of this chapter.

4-21-1104. Controlling authority.

This part prevails over any conflicting provisions in a general law, present or future, to the extent of the conflict; but if a general law contains a specific exemption from this part, including a specific reference to sections in this part, then the general law prevails, but only to the extent of the exemption.

SECTION 2. Tennessee Code Annotated, Section 4-21-306(a), is amended by adding the following as a new subdivision:

(10)

(A) In cases involving discriminatory practices as described in part 11 of this chapter, payment by the respondent of a civil penalty:

(i) In an amount not exceeding ten thousand dollars (\$10,000) if the respondent has not been adjudged to have committed a prior unlawful discriminatory practice;

(ii) In an amount not exceeding twenty-five thousand dollars (\$25,000) if the respondent has been adjudged to have committed one (1) other unlawful discriminatory practice during the five-year period ending on the date of the filing of the complaint; or

(iii) In the amount of fifty thousand dollars (\$50,000) per occurrence if the respondent has been adjudged to have committed two (2) or more unlawful discriminatory practices during the seven-year period ending on the date of the filing of the complaint;

(B) If the acts constituting the discriminatory practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting an unlawful discriminatory practice, then the civil penalties set forth in subdivisions (a)(10)(A)(ii) and (iii) may be imposed without regard to the period of time within which a subsequent discriminatory practice occurred.

SECTION 3. Tennessee Code Annotated, Section 4-21-311(c), is amended by deleting the subsection and substituting:

(c) In cases involving discriminatory housing practices and discriminatory practices as described in part 11 of this chapter, the court may award punitive damages

to the plaintiff, in addition to the other relief specified in this section and this chapter. In addition to the remedies set forth in this section, all remedies described in § 4-21-306, except the civil penalties described in § 4-21-306(a)(9) and (10), are available in a lawsuit filed pursuant to this section.

SECTION 4. Tennessee Code Annotated, Sections 14-2-101 and 14-2-102, are amended by deleting the sections.

SECTION 5. The department of health, county health departments, and county boards of health shall prominently display the text of §§ 4-21-1101 and 4-21-1102 on the home pages of their websites, if available, for a period of at least six (6) months beginning on the effective date of this act.

SECTION 6. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 7. This act takes effect upon becoming a law, the public welfare requiring it, and applies to prohibited conduct occurring on or after the effective date of this act.