

VACCINE PASSPORT PROHIBITION

2023 GENERAL SESSION

STATE OF UTAH

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Senate Sponsor: Michael S. Kennedy

| | | | |
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LONG TITLE

General Description:

This bill enacts a prohibition on the use of an individual's immunity status by places of public accommodation, governmental entities, and employers.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes it unlawful for a place of public accommodation to discriminate against an individual based on the individual's immunity status;

- 29 ▶ with certain exceptions, prohibits a governmental entity from requiring proof of
- 30 immunity status;
- 31 ▶ with certain exceptions, makes it unlawful discrimination for an employer to require
- 32 proof of immunity status; and
- 33 ▶ prohibits a governmental entity or employer from requiring an individual to receive
- 34 a vaccine.

35 Money Appropriated in this Bill:

36 None

37 Other Special Clauses:

38 None

39 Utah Code Sections Affected:

40 AMENDS:

41 **63D-2-102**, as last amended by Laws of Utah 2021, Chapter 345

42 **63I-1-226**, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255,

43 347, and 451

44 ENACTS:

45 **13-7-5**, Utah Code Annotated 1953

46 **26-68-103**, Utah Code Annotated 1953

47 **34A-5-113**, Utah Code Annotated 1953

48 REPEALS:

49 **26-68-101**, as enacted by Laws of Utah 2021, Chapter 182

50 **26-68-102**, as enacted by Laws of Utah 2021, Chapter 182

51

52 *Be it enacted by the Legislature of the state of Utah:*

53 Section 1. Section **13-7-5** is enacted to read:

54 **13-7-5. Equal right in business establishments, places of public accommodation,**

55 **and enterprises regulated by the state regardless of immunity status.**

56 (1) As used in this section, "immunity status" means an indication of whether an

57 individual is immune to a disease, whether through vaccination or infection and recovery.

58 (2) All persons within the jurisdiction of this state are free and equal and are entitled to
59 full and equal accommodations, advantages, facilities, privileges, goods, and services in all
60 business establishments and in all places of public accommodation, and by all enterprises
61 regulated by the state of every kind whatsoever, without discrimination on the basis of
62 immunity status.

63 (3) Nothing in this section shall be construed to deny any person the right to regulate
64 the operation of a business establishment or place of public accommodation or an enterprise
65 regulated by the state in a manner which applies uniformly to all persons without regard to
66 immunity status, or to deny any religious organization the right to regulate the operation and
67 procedures of the religious organization's establishments.

68 (4) (a) The provisions in Section 13-7-4 shall apply to enforcement and violations of
69 this section.

70 (b) Upon application to the attorney general by any person denied the rights guaranteed
71 by this section, the attorney general shall investigate and seek to conciliate the matter.

72 Section 2. Section 26-68-103 is enacted to read:

73 **CHAPTER 68. VACCINE AND IMMUNITY PASSPORT RESTRICTIONS ACT**

74 **26-68-103. Prohibition on requiring immunity passports or vaccination --**

75 **Exceptions.**

76 (1) As used in this section:

77 (a) "Governmental entity" means the same as that term is defined in Section
78 63D-2-102.

79 (b) "Immunity passport" means a document, digital record, or software application
80 indicating that an individual is immune to a disease, whether through vaccination or infection
81 and recovery.

82 (c) "Regulated entity" means an employer, as defined in Section 34A-6-103, that is
83 subject to a regulation by the Centers for Medicare and Medicaid Services regarding a vaccine,
84 unless the employer is:

85 (i) the state or a political subdivision of the state; and
86 (ii) not a health care facility as defined in Section 26-21-2.
87 (d) "Vaccination status" means an indication of whether an individual has received one
88 or more doses of a vaccine.

89 (2) A governmental entity may not:

90 (a) refuse, withhold from, or deny to an individual any local or state service, good,
91 facility, advantage, privilege, license, educational opportunity, health care access, or
92 employment opportunity based on the individual's vaccination status, including whether the
93 individual has an immunity passport; or

94 (b) require any individual, directly or indirectly, to receive a vaccine.

95 (3) Subsection (2) does not apply to:

96 (a) a vaccination requirement by an institution of higher education, if the vaccination
97 requirement is implemented in accordance with Section 53B-2-113;

98 (b) a vaccination requirement by a school if the vaccination requirement is
99 implemented in accordance with Title 53G, Chapter 9, Part 3, Immunization Requirements;

100 (c) a child care program as defined in Section 26-39-102 if the vaccination requirement
101 is implemented in accordance with applicable provisions of state and federal law;

102 (d) a regulated entity if compliance with Subsection (2) would result in a violation of
103 binding, mandatory regulations or requirements that affect the regulated entity's funding issued
104 by the Centers for Medicare and Medicaid Services or the United States Centers for Disease
105 Control and Prevention;

106 (e) a contract for goods or services entered into before May 3, 2023, if:

107 (i) application of this section would result in a substantial impairment of the contract;

108 and

109 (ii) the contract is not between an employer and the employer's employee;

110 (f) a federal contractor;

111 (g) a governmental entity vaccination requirement of an employee who, as determined
112 by the governmental entity;

113 (i) has, as part of the employee's duties, direct exposure to human blood, human fecal
114 matter, or other potentially infectious materials that may expose the employee to hepatitis or
115 tuberculosis; or

116 (ii) is acting in a public health or medical setting that requires the employee to receive
117 vaccinations to perform the employee's assigned duties and responsibilities; or

118 (h) a governmental entity that:

119 (i) establishes a nexus between a vaccination requirement and the employee's assigned
120 duties and responsibilities; or

121 (ii) identifies an external requirement for vaccination that is not imposed by the
122 governmental entity and is related to the employee's duties and responsibilities.

123 (4) Nothing in this section prohibits a governmental entity from recommending that an
124 employee receive a vaccine.

125 Section 3. Section **34A-5-113** is enacted to read:

126 **34A-5-113. Prohibition on requiring immunity passports and discrimination**
127 **based on immunity -- Exceptions.**

128 (1) As used in this section:

129 (a) "Employer" means, notwithstanding Section [34A-5-102](#):

130 (i) the state;

131 (ii) a county, city, town, or school district in the state; and

132 (iii) a person, including a public utility, having one or more workers or operatives
133 regularly employed in the same business, or in or about the same establishment, under any
134 contract of hire.

135 (b) "Immunity passport" means a document, digital record, or software application
136 indicating that an individual is immune to a disease, whether through vaccination or infection
137 and recovery.

138 (c) "Regulated entity" means an employer, as defined in Section [34A-6-103](#), that is
139 subject to a regulation by the Centers for Medicare and Medicaid Services regarding a vaccine,
140 unless the employer is:

- 141 (i) the state or a political subdivision of the state; and
- 142 (ii) not a health care facility as defined in Section 26-21-2.
- 143 (d) "School" means the same as that term is defined in Section 53G-9-301.
- 144 (e) "Vaccination status" means an indication of whether an individual has received one
- 145 or more doses of a vaccine.

146 (2) It is a discriminatory or prohibited employment practice for an employer, on the
147 basis of an individual's vaccination status or whether the individual has an immunity passport,
148 to:

- 149 (a) refuse employment to an individual;
- 150 (b) bar an individual from employment; or
- 151 (c) discriminate against an individual in compensation or in a term, condition, or
- 152 privilege of employment.

153 (3) Subsection (2) does not apply to:

154 (a) a vaccination requirement by a child care program as defined in Section 26-39-102
155 if the vaccination requirement is implemented in accordance with applicable provisions of state
156 and federal law;

157 (b) a regulated entity if compliance with Subsection (2) would result in a violation of
158 binding, mandatory regulations or requirements that affect the regulated entity's funding issued
159 by the Centers for Medicare and Medicaid Services or the United States Centers for Disease
160 Control and Prevention;

161 (c) a contract for goods or services entered into before May 3, 2023, if:

162 (i) application of this section would result in a substantial impairment of the contract;

163 and

164 (ii) the contract is not between an employer and the employer's employee;

165 (d) a federal contractor;

166 (e) an employer vaccination requirement of an employee who, as determined by the
167 employer, has direct exposure to human blood, human fecal matter, or other potentially
168 infectious materials that may expose the employee to hepatitis or tuberculosis; or

- 169 (f) an employer that:
- 170 (i) establishes a nexus between a vaccination requirement and the employee's assigned
- 171 duties and responsibilities; or
- 172 (ii) identifies an external requirement for vaccination that is not imposed by the
- 173 employer and is related to the employee's duties and responsibilities.
- 174 (4) Nothing in this section prohibits an employer from recommending that an employee
- 175 receive a vaccine.

176 Section 4. Section **63D-2-102** is amended to read:

177 **63D-2-102. Definitions.**

178 As used in this chapter:

- 179 (1) (a) "Collect" means the gathering of personally identifiable information:
- 180 (i) from a user of a governmental website; or
- 181 (ii) about a user of the governmental website.
- 182 (b) "Collect" includes use of any identifying code linked to a user of a governmental
- 183 website.
- 184 (2) "Court website" means a website on the Internet that is operated by or on behalf of
- 185 any court created in Title 78A, Chapter 1, Judiciary.
- 186 (3) "Governmental entity" means:
- 187 (a) an executive branch agency as defined in Section [63A-16-102](#);
- 188 (b) the legislative branch;
- 189 (c) the judicial branch;
- 190 (d) the State Board of Education;
- 191 (e) the Utah Board of Higher Education;
- 192 (f) an institution of higher education as defined in Section [53B-1-102](#); and
- 193 (g) a political subdivision of the state:
- 194 (i) as defined in Section [17B-1-102](#); and
- 195 (ii) including a school district.
- 196 (4) (a) "Governmental website" means a website on the Internet that is operated by or

197 on behalf of a governmental entity.

198 (b) "Governmental website" includes a court website.

199 (5) "Governmental website operator" means a governmental entity or person acting on
200 behalf of the governmental entity that:

201 (a) operates a governmental website; and

202 (b) collects or maintains personally identifiable information from or about a user of
203 that website.

204 (6) "Personally identifiable information" means information that identifies:

205 (a) a user by:

206 (i) name;

207 (ii) account number;

208 (iii) physical address;

209 (iv) email address;

210 (v) telephone number;

211 (vi) Social Security number;

212 (vii) credit card information; or

213 (viii) bank account information;

214 (b) a user as having requested or obtained specific materials or services from a
215 governmental website;

216 (c) Internet sites visited by a user; or

217 (d) any of the contents of a user's data-storage device.

218 (7) "User" means a person who accesses a governmental website.

219 Section 5. Section **63I-1-226** is amended to read:

220 **63I-1-226. Repeal dates: Title 26 through 26B.**

221 (1) Section [26-1-7.5](#), which creates the Utah Health Advisory Council, is repealed July
222 1, 2025.

223 (2) Section [26-1-40](#) is repealed July 1, 2022.

224 (3) Section [26-1-41](#) is repealed July 1, 2026.

- 225 (4) Section 26-1-43 is repealed December 31, 2025.
- 226 (5) Section 26-7-10 is repealed July 1, 2025.
- 227 (6) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1,
228 2028.
- 229 (7) Section 26-7-14 is repealed December 31, 2027.
- 230 (8) Section 26-8a-603 is repealed July 1, 2027.
- 231 (9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
232 1, 2025.
- 233 (10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee,
234 is repealed July 1, 2026.
- 235 (11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed
236 July 1, 2025.
- 237 (12) Subsection 26-15c-104(3), relating to a limitation on the number of
238 microenterprise home kitchen permits that may be issued, is repealed July 1, 2022.
- 239 (13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is
240 repealed July 1, 2028.
- 241 (14) Section 26-18-27 is repealed July 1, 2025.
- 242 (15) Section 26-18-28 is repealed June 30, 2027.
- 243 (16) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1,
244 2027.
- 245 (17) Subsection 26-18-418(2), the language that states "and the Behavioral Health
246 Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.
- 247 (18) Section 26-33a-117 is repealed December 31, 2023.
- 248 (19) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.
- 249 (20) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1,
250 2024.
- 251 (21) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed
252 July 1, 2024.

253 (22) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

254 (23) Section 26-39-201, which creates the Residential Child Care Licensing Advisory
255 Committee, is repealed July 1, 2024.

256 (24) Section 26-39-405, Drinking water quality in child care centers, is repealed July 1,
257 2027.

258 (25) Section 26-40-104, which creates the Utah Children's Health Insurance Program
259 Advisory Council, is repealed July 1, 2025.

260 (26) Section 26-50-202, which creates the Traumatic Brain Injury Advisory
261 Committee, is repealed July 1, 2025.

262 (27) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and
263 Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

264 (28) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1,
265 2026.

266 [~~(29) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1,~~
267 ~~2024.~~]

268 [~~(30)~~ (29) Section 26-69-406 is repealed July 1, 2025.

269 [~~(31)~~ (30) Subsection 26B-1-204(2)(i), related to the Residential Child Care Licensing
270 Advisory Committee, is repealed July 1, 2024.

271 [~~(32)~~ (31) Subsection 26B-1-204(2)(k), related to the Primary Care Grant Committee,
272 is repealed July 1, 2025.

273 Section 6. **Repealer.**

274 This bill repeals:

275 Section 26-68-101, Title.

276 Section 26-68-102, Governmental entities prohibited from requiring a COVID-19
277 vaccine.