

Vaccine Amendments
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Trevor Lee

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LONG TITLE

General Description:

This bill addresses vaccines or vaccine material.

Highlighted Provisions:

This bill:

- defines terms;
- designates food intended for human consumption that contains a vaccine or vaccine materials as a drug; and
- makes technical amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-7-108, as renumbered and amended by Laws of Utah 2023, Chapter 308

58-37-2, as last amended by Laws of Utah 2024, Chapter 35

ENACTS:

4-5-107, Utah Code Annotated 1953

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

Section 1. Section **4-5-107** is enacted to read:

4-5-107 . Food containing vaccine.

(1) As used in this section, "vaccine or vaccine material" means a substance that is:

- (a) intended for use in humans to stimulate the production of antibodies and provide immunity against disease;
- (b) prepared from the causative agent of a disease, the disease's products, or a synthetic substitute treated to act as an antigen without including the disease; and
- (c) authorized or approved by the United States Food and Drug Administration.

32 (2) A food intended for human consumption that contains a vaccine or vaccine material is
 33 considered a drug for purposes of this chapter, Section 26B-7-108, and Title 58, Chapter
 34 37, Utah Controlled Substances Act.

35 Section 2. Section **26B-7-108** is amended to read:

36 **26B-7-108 . Rules for sale of drugs, cosmetics, and medical devices.**

37 (1) The department shall [establish] make rules, in accordance with Title 63G, Chapter
 38 3, Utah Administrative Rulemaking Act, and enforce the rules for the sale or distribution
 39 of human drugs, cosmetics, and medical devices.

40 (2) Food intended for human consumption that contains a vaccine or vaccine material is
 41 considered a human drug for purposes of this section as provided in Section 4-5-107.

42 (3) The rules adopted under this section shall be no more stringent than those established by
 43 federal law.

44 Section 3. Section **58-37-2** is amended to read:

45 **58-37-2 . Definitions.**

46 (1) As used in this chapter:

47 (a) "Administer" means the direct application of a controlled substance, whether by
 48 injection, inhalation, ingestion, or any other means, to the body of a patient or
 49 research subject by:

50 (i) a practitioner or, in the practitioner's presence, by the practitioner's authorized
 51 agent; or

52 (ii) the patient or research subject at the direction and in the presence of the
 53 practitioner.

54 (b) "Agent" means an authorized person who acts on behalf of or at the direction of a
 55 manufacturer, distributor, or practitioner but does not include a motor carrier, public
 56 warehouseman, or employee of any of them.

57 (c) "Consumption" means ingesting or having any measurable amount of a controlled
 58 substance in a person's body, but this Subsection (1)(c) does not include the
 59 metabolite of a controlled substance.

60 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,
 61 partnership, corporation, business trust, association, or other legal entity, and any
 62 union or groups of individuals associated in fact although not a legal entity, and
 63 includes illicit as well as licit entities created or maintained for the purpose of
 64 engaging in conduct which constitutes the commission of episodes of activity made
 65 unlawful by [~~Chapter 37, Utah Controlled Substances Act~~] this chapter, Chapter 37a,

66 Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act,
67 Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine
68 Drug Lab Act, which episodes are not isolated, but have the same or similar
69 purposes, results, participants, victims, methods of commission, or otherwise are
70 interrelated by distinguishing characteristics. Taken together, the episodes shall
71 demonstrate continuing unlawful conduct and be related either to each other or to the
72 enterprise.

73 (e) "Control" means to add, remove, or change the placement of a drug, substance, or
74 immediate precursor under Section 58-37-3.

75 (f)(i) "Controlled substance" means a drug or substance:

76 (A) included in Schedules I, II, III, IV, or V of Section 58-37-4;

77 (B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances
78 Act, Title II, P.L. 91-513;

79 (C) that is a controlled substance analog; or

80 (D) listed in Section 58-37-4.2.

81 (ii) "Controlled substance" does not include:

82 (A) distilled spirits, wine, or malt beverages, as those terms are defined in Title
83 32B, Alcoholic Beverage Control Act;

84 (B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment,
85 or prevention of disease in human or other animals, which contains ephedrine,
86 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is
87 lawfully purchased, sold, transferred, or furnished as an over-the-counter
88 medication without prescription; or

89 (C) dietary supplements, vitamins, minerals, herbs, or other similar substances
90 including concentrates or extracts, which:

91 (I) are not otherwise regulated by law; and

92 (II) may contain naturally occurring amounts of chemical or substances listed
93 in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah
94 Administrative Rulemaking Act.

95 (g)(i) "Controlled substance analog" means:

96 (A) a substance the chemical structure of which is substantially similar to the
97 chemical structure of a controlled substance listed in Schedules I and II of
98 Section 58-37-4, a substance listed in Section 58-37-4.2, or in Schedules I and
99 II of the federal Controlled Substances Act, Title II, P.L. 91-513;

- 100 (B) a substance [~~which~~] that has a stimulant, depressant, or hallucinogenic effect
101 on the central nervous system substantially similar to the stimulant, depressant,
102 or hallucinogenic effect on the central nervous system of controlled substances
103 listed in Schedules I and II of Section 58-37-4, substances listed in Section
104 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled
105 Substances Act, Title II, P.L. 91-513; or
- 106 (C) A substance [~~which~~] that, with respect to a particular individual, is represented
107 or intended to have a stimulant, depressant, or hallucinogenic effect on the
108 central nervous system substantially similar to the stimulant, depressant, or
109 hallucinogenic effect on the central nervous system of controlled substances
110 listed in Schedules I and II of Section 58-37-4, substances listed in Section
111 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled
112 Substances Act, Title II, P.L. 91-513.
- 113 (ii) "Controlled substance analog" does not include:
- 114 (A) a controlled substance currently scheduled in Schedules I through V of
115 Section 58-37-4;
- 116 (B) a substance for which there is an approved new drug application;
- 117 (C) a substance with respect to which an exemption is in effect for investigational
118 use by a particular person under Section 505 of the Food, Drug, and Cosmetic
119 Act, 21 U.S.C. 355, to the extent the conduct with respect to the substance is
120 permitted by the exemption;
- 121 (D) any substance to the extent not intended for human consumption before an
122 exemption takes effect with respect to the substance;
- 123 (E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment,
124 or prevention of disease in man or other animals, which contains ephedrine,
125 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is
126 lawfully purchased, sold, transferred, or furnished as an over-the-counter
127 medication without prescription; or
- 128 (F) dietary supplements, vitamins, minerals, herbs, or other similar substances
129 including concentrates or extracts, which are not otherwise regulated by law,
130 which may contain naturally occurring amounts of chemical or substances
131 listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah
132 Administrative Rulemaking Act.
- 133 (h)(i) "Conviction" means a determination of guilt by verdict, whether jury or bench,

- 134 or plea, whether guilty or no contest, for any offense proscribed by:
- 135 (A) [~~Chapter 37, Utah Controlled Substances Act~~] this chapter;
- 136 (B) Chapter 37a, Utah Drug Paraphernalia Act;
- 137 (C) Chapter 37b, Imitation Controlled Substances Act;
- 138 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or
- 139 (E) Chapter 37d, Clandestine Drug Lab Act; or
- 140 (ii) for any offense under the laws of the United States and any other state which, if
- 141 committed in this state, would be an offense under:
- 142 (A) [~~Chapter 37, Utah Controlled Substances Act~~] this chapter;
- 143 (B) Chapter 37a, Utah Drug Paraphernalia Act;
- 144 (C) Chapter 37b, Imitation Controlled Substances Act;
- 145 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or
- 146 (E) Chapter 37d, Clandestine Drug Lab Act.
- 147 (i) "Counterfeit substance" means:
- 148 (i) any controlled substance or container or labeling of any controlled substance that:
- 149 (A) without authorization bears the trademark, trade name, or other identifying
- 150 mark, imprint, number, device, or any likeness of them, of a manufacturer,
- 151 distributor, or dispenser other than the person or persons who in fact
- 152 manufactured, distributed, or dispensed the substance which falsely purports to
- 153 be a controlled substance distributed by any other manufacturer, distributor, or
- 154 dispenser; and
- 155 (B) a reasonable person would believe to be a controlled substance distributed by
- 156 an authorized manufacturer, distributor, or dispenser based on the appearance
- 157 of the substance as described under Subsection (1)(i)(i)(A) or the appearance of
- 158 the container of that controlled substance; or
- 159 (ii) any substance other than under Subsection (1)(i)(i) that:
- 160 (A) is falsely represented to be any legally or illegally manufactured controlled
- 161 substance; and
- 162 (B) a reasonable person would believe to be a legal or illegal controlled substance.
- 163 (j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a
- 164 controlled substance or a listed chemical, whether or not an agency relationship exists.
- 165 (k) "Department" means the Department of Commerce.
- 166 (l) "Depressant or stimulant substance" means:
- 167 (i) a drug which contains any quantity of barbituric acid or any of the salts of

- 168 barbituric acid;
- 169 (ii) a drug which contains any quantity of:
- 170 (A) amphetamine or any of its optical isomers;
- 171 (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or
- 172 (C) any substance which the Secretary of Health and Human Services or the
- 173 Attorney General of the United States after investigation has found and by
- 174 regulation designated habit-forming because of its stimulant effect on the
- 175 central nervous system;
- 176 (iii) lysergic acid diethylamide; or
- 177 (iv) any drug which contains any quantity of a substance which the Secretary of
- 178 Health and Human Services or the Attorney General of the United States after
- 179 investigation has found to have, and by regulation designated as having, a
- 180 potential for abuse because of its depressant or stimulant effect on the central
- 181 nervous system or its hallucinogenic effect.
- 182 (m) "Dispense" means the delivery of a controlled substance by a pharmacist to an
- 183 ultimate user pursuant to the lawful order or prescription of a practitioner, and
- 184 includes distributing to, leaving with, giving away, or disposing of that substance as
- 185 well as the packaging, labeling, or compounding necessary to prepare the substance
- 186 for delivery.
- 187 (n) "Dispenser" means a pharmacist who dispenses a controlled substance.
- 188 (o) "Distribute" means to deliver other than by administering or dispensing a controlled
- 189 substance or a listed chemical.
- 190 (p) "Distributor" means a person who distributes controlled substances.
- 191 (q) "Division" means the Division of Professional Licensing created in Section 58-1-103.
- 192 (r)(i) "Drug" means:
- 193 (A) a substance recognized in the official United States Pharmacopoeia, Official
- 194 Homeopathic Pharmacopoeia of the United States, or Official National
- 195 Formulary, or any supplement to any of them, intended for use in the
- 196 diagnosis, cure, mitigation, treatment, or prevention of disease in humans or
- 197 animals;
- 198 (B) a substance that is required by any applicable federal or state law or rule to be
- 199 dispensed by prescription only or is restricted to administration by practitioners
- 200 only;
- 201 (C) a substance other than food intended to affect the structure or any function of

- 202 the body of humans or other animals; and
- 203 (D) substances intended for use as a component of any substance specified in
- 204 Subsections (1)(r)(i)(A), (B), and (C).
- 205 (ii) "Drug" does not include dietary supplements.
- 206 (iii) "Drug" includes a food intended for human consumption that contains a vaccine
- 207 or vaccine material as provided in Section 4-5-107.
- 208 (s) "Drug dependent person" means any individual who unlawfully and habitually uses
- 209 any controlled substance to endanger the public morals, health, safety, or welfare, or
- 210 who is so dependent upon the use of controlled substances as to have lost the power
- 211 of self-control with reference to the individual's dependency.
- 212 (t)(i) "Food" means:
- 213 [(i)] (A) any nutrient or substance of plant, mineral, or animal origin other than a
- 214 drug as specified in this chapter, and normally ingested by human beings; and
- 215 [(ii)] (B) foods for special dietary uses as exist by reason of a physical,
- 216 physiological, pathological, or other condition including~~[- but not limited to]~~ the
- 217 conditions of disease, convalescence, pregnancy, lactation, allergy,
- 218 hypersensitivity to food, underweight, and overweight; uses for supplying a
- 219 particular dietary need which exist by reason of age including~~[- but not limited~~
- 220 ~~to]~~ the ages of infancy and childbirth, and also uses for supplementing and for
- 221 fortifying the ordinary or unusual diet with any vitamin, mineral, or other
- 222 dietary property for use of a food.
- 223 (ii) Any particular use of a food is a special dietary use regardless of the nutritional
- 224 purposes.
- 225 (u) "Immediate precursor" means a substance which the Attorney General of the United
- 226 States has found to be, and by regulation designated as being, the principal compound
- 227 used or produced primarily for use in the manufacture of a controlled substance, or
- 228 which is an immediate chemical intermediary used or likely to be used in the
- 229 manufacture of a controlled substance, the control of which is necessary to prevent,
- 230 curtail, or limit the manufacture of the controlled substance.
- 231 (v) "Indian" means a member of an Indian tribe.
- 232 (w) "Indian religion" means ~~[any]~~ a religion:
- 233 (i) the origin and interpretation of which is from within a traditional Indian culture or
- 234 community; and
- 235 (ii) ~~[which]~~ that is practiced by Indians.

- 236 (x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or
237 community of Indians, including any Alaska Native village, which is legally
238 recognized as eligible for and is consistent with the special programs, services, and
239 entitlements provided by the United States to Indians because of their status as
240 Indians.
- 241 (y) "Manufacture" means the production, preparation, propagation, compounding, or
242 processing of a controlled substance, either directly or indirectly by extraction from
243 substances of natural origin, or independently by means of chemical synthesis or by a
244 combination of extraction and chemical synthesis.
- 245 (z) "Manufacturer" includes any person who packages, repackages, or labels any
246 container of any controlled substance, except pharmacists who dispense or compound
247 prescription orders for delivery to the ultimate consumer.
- 248 (aa)(i) "Marijuana" means all species of the genus cannabis and all parts of the
249 genus, whether growing or not, including:
- 250 (A) seeds;
 - 251 (B) resin extracted from any part of the plant, including the resin extracted from
252 the mature stalks;
 - 253 (C) every compound, manufacture, salt, derivative, mixture, or preparation of the
254 plant, seeds, or resin;
 - 255 (D) any synthetic equivalents of the substances contained in the plant cannabis
256 sativa or any other species of the genus cannabis which are chemically
257 indistinguishable and pharmacologically active; and
 - 258 (E) any component part or cannabinoid extracted or isolated from the plant,
259 including extracted or isolated tetrahydrocannabinols.
- 260 (ii) "Marijuana" does not include:
- 261 (A) the mature stalks of the plant;
 - 262 (B) fiber produced from the stalks;
 - 263 (C) oil or cake made from the seeds of the plant;
 - 264 (D) except as provided in Subsection (1)(aa)(i), any other compound,
265 manufacture, salt, derivative, mixture, or preparation of the mature stalks,
266 fiber, oil or cake;
 - 267 (E) the sterilized seed of the plant which is incapable of germination;
 - 268 (F) any compound, mixture, or preparation approved by the federal Food and
269 Drug Administration under the federal Food, Drug, and Cosmetic Act, 21

- 270 U.S.C. Sec. 301 et seq. that is not listed in a schedule of controlled substances
271 in Section 58-37-4 or in the federal Controlled Substances Act, Title II, P.L.
272 91-513; or
- 273 (G) transportable industrial hemp concentrate as that term is defined in Section
274 4-41-102.
- 275 (bb) "Money" means officially issued coin and currency of the United States or any
276 foreign country.
- 277 (cc) "Narcotic drug" means any of the following, whether produced directly or indirectly
278 by extraction from substances of vegetable origin, or independently by means of
279 chemical synthesis, or by a combination of extraction and chemical synthesis:
- 280 (i) opium, coca leaves, and opiates;
- 281 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves,
282 or opiates;
- 283 (iii) opium poppy and poppy straw; or
- 284 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of
285 the substance, which is chemically identical with any of the substances referred to
286 in Subsection (1)(cc)(i), (ii), or (iii), except narcotic drug does not include
287 decocainized coca leaves or extracts of coca leaves which do not contain cocaine
288 or ecgonine.
- 289 (dd) "Negotiable instrument" means documents, containing an unconditional promise to
290 pay a sum of money, which are legally transferable to another party by endorsement
291 or delivery.
- 292 (ee) "Opiate" means any drug or other substance having an addiction-forming or
293 addiction-sustaining liability similar to morphine or being capable of conversion into
294 a drug having addiction-forming or addiction-sustaining liability.
- 295 (ff) "Opium poppy" means the plant of the species *papaver somniferum* L., except the
296 seeds of the plant.
- 297 (gg) "Person" means any corporation, association, partnership, trust, other institution or
298 entity or one or more individuals.
- 299 (hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- 300 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy,
301 holding, retaining, belonging, maintaining, or the application, inhalation, swallowing,
302 injection, or consumption, as distinguished from distribution, of controlled
303 substances and includes individual, joint, or group possession or use of controlled

304 substances. For a person to be a possessor or user of a controlled substance, it is not
305 required that the person be shown to have individually possessed, used, or controlled
306 the substance, but it is sufficient if it is shown that the person jointly participated with
307 one or more persons in the use, possession, or control of any substances with
308 knowledge that the activity was occurring, or the controlled substance is found in a
309 place or under circumstances indicating that the person had the ability and the intent
310 to exercise dominion and control over [it] the controlled substance.

311 (jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian,
312 pharmacist, scientific investigator, pharmacy, hospital, or other person licensed,
313 registered, or otherwise permitted to distribute, dispense, conduct research with
314 respect to, administer, or use in teaching or chemical analysis a controlled substance
315 in the course of professional practice or research in this state.

316 (kk) "Prescribe" means to issue a prescription:

317 (i) orally or in writing; or

318 (ii) by telephone, facsimile transmission, computer, or other electronic means of
319 communication as defined by division rule.

320 (ll) "Prescription" means an order issued:

321 (i) by a licensed practitioner, in the course of that practitioner's professional practice
322 or by collaborative pharmacy practice agreement; and

323 (ii) for a controlled substance or other prescription drug or device for use by a patient
324 or an animal.

325 (mm) "Production" means the manufacture, planting, cultivation, growing, or harvesting
326 of a controlled substance.

327 (nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of
328 property.

329 (oo) "State" means the state of Utah.

330 (pp) "Ultimate user" means any person who lawfully possesses a controlled substance
331 for the person's own use, for the use of a member of the person's household, or for
332 administration to an animal owned by the person or a member of the person's
333 household.

334 (2) If a term used in this chapter is not defined, the definition and terms of Title 76, Utah
335 Criminal Code, shall apply.

336 Section 4. **Effective Date.**

337 This bill takes effect on May 7, 2025.