

Keith Grover proposes the following substitute bill:

Vaccine Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Trevor Lee

Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill addresses vaccines or vaccine material.

Highlighted Provisions:

This bill:

- defines terms;
- designates food intended for human consumption that intentionally contains a vaccine or vaccine material 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

30 substitute treated to act as an antigen without including the disease; and
31 (c) authorized or approved by the United States Food and Drug Administration.
32 (2) A food intended for human consumption that intentionally contains a vaccine or vaccine
33 material is considered a drug for purposes of this chapter, Section 26B-7-108, and Title
34 58, Chapter 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 intentionally contains a vaccine or vaccine
41 material is considered a human drug for purposes of this section as provided in Section
42 4-5-107.

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

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

46 **58-37-2 . Definitions.**

47 (1) As used in this chapter:

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

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

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

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

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

61 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,
62 partnership, corporation, business trust, association, or other legal entity, and any
63 union or groups of individuals associated in fact although not a legal entity, and

64 includes illicit as well as licit entities created or maintained for the purpose of
65 engaging in conduct which constitutes the commission of episodes of activity made
66 unlawful by [~~Chapter 37, Utah Controlled Substances Act~~] this chapter, Chapter 37a,
67 Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act,
68 Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine
69 Drug Lab Act, which episodes are not isolated, but have the same or similar
70 purposes, results, participants, victims, methods of commission, or otherwise are
71 interrelated by distinguishing characteristics. Taken together, the episodes shall
72 demonstrate continuing unlawful conduct and be related either to each other or to the
73 enterprise.

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

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

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

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

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

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

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

83 (A) distilled spirits, wine, or malt beverages, as those terms are defined in Title
84 32B, Alcoholic Beverage Control Act;

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

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

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

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

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

97 (A) a substance the chemical structure of which is substantially similar to the

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

132 listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah
133 Administrative Rulemaking Act.

134 (h)(i) "Conviction" means a determination of guilt by verdict, whether jury or bench,
135 or plea, whether guilty or no contest, for any offense proscribed by:

136 (A) [~~Chapter 37, Utah Controlled Substances Act~~] this chapter;

137 (B) Chapter 37a, Utah Drug Paraphernalia Act;

138 (C) Chapter 37b, Imitation Controlled Substances Act;

139 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or

140 (E) Chapter 37d, Clandestine Drug Lab Act; or

141 (ii) for any offense under the laws of the United States and any other state which, if
142 committed in this state, would be an offense under:

143 (A) [~~Chapter 37, Utah Controlled Substances Act~~] this chapter;

144 (B) Chapter 37a, Utah Drug Paraphernalia Act;

145 (C) Chapter 37b, Imitation Controlled Substances Act;

146 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or

147 (E) Chapter 37d, Clandestine Drug Lab Act.

148 (i) "Counterfeit substance" means:

149 (i) any controlled substance or container or labeling of any controlled substance that:

150 (A) without authorization bears the trademark, trade name, or other identifying
151 mark, imprint, number, device, or any likeness of them, of a manufacturer,
152 distributor, or dispenser other than the person or persons who in fact
153 manufactured, distributed, or dispensed the substance which falsely purports to
154 be a controlled substance distributed by any other manufacturer, distributor, or
155 dispenser; and

156 (B) a reasonable person would believe to be a controlled substance distributed by
157 an authorized manufacturer, distributor, or dispenser based on the appearance
158 of the substance as described under Subsection (1)(i)(i)(A) or the appearance of
159 the container of that controlled substance; or

160 (ii) any substance other than under Subsection (1)(i)(i) that:

161 (A) is falsely represented to be any legally or illegally manufactured controlled
162 substance; and

163 (B) a reasonable person would believe to be a legal or illegal controlled substance.

164 (j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a
165 controlled substance or a listed chemical, whether or not an agency relationship exists.

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

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

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

- 268 (E) the sterilized seed of the plant which is incapable of germination;
- 269 (F) any compound, mixture, or preparation approved by the federal Food and
270 Drug Administration under the federal Food, Drug, and Cosmetic Act, 21
271 U.S.C. Sec. 301 et seq. that is not listed in a schedule of controlled substances
272 in Section 58-37-4 or in the federal Controlled Substances Act, Title II, P.L.
273 91-513; or
- 274 (G) transportable industrial hemp concentrate as that term is defined in Section
275 4-41-102.
- 276 (bb) "Money" means officially issued coin and currency of the United States or any
277 foreign country.
- 278 (cc) "Narcotic drug" means any of the following, whether produced directly or indirectly
279 by extraction from substances of vegetable origin, or independently by means of
280 chemical synthesis, or by a combination of extraction and chemical synthesis:
- 281 (i) opium, coca leaves, and opiates;
- 282 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves,
283 or opiates;
- 284 (iii) opium poppy and poppy straw; or
- 285 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of
286 the substance, which is chemically identical with any of the substances referred to
287 in Subsection (1)(cc)(i), (ii), or (iii), except narcotic drug does not include
288 decocainized coca leaves or extracts of coca leaves which do not contain cocaine
289 or ecgonine.
- 290 (dd) "Negotiable instrument" means documents, containing an unconditional promise to
291 pay a sum of money, which are legally transferable to another party by endorsement
292 or delivery.
- 293 (ee) "Opiate" means any drug or other substance having an addiction-forming or
294 addiction-sustaining liability similar to morphine or being capable of conversion into
295 a drug having addiction-forming or addiction-sustaining liability.
- 296 (ff) "Opium poppy" means the plant of the species *papaver somniferum* L., except the
297 seeds of the plant.
- 298 (gg) "Person" means any corporation, association, partnership, trust, other institution or
299 entity or one or more individuals.
- 300 (hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- 301 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy,

302 holding, retaining, belonging, maintaining, or the application, inhalation, swallowing,
303 injection, or consumption, as distinguished from distribution, of controlled
304 substances and includes individual, joint, or group possession or use of controlled
305 substances. For a person to be a possessor or user of a controlled substance, it is not
306 required that the person be shown to have individually possessed, used, or controlled
307 the substance, but it is sufficient if it is shown that the person jointly participated with
308 one or more persons in the use, possession, or control of any substances with
309 knowledge that the activity was occurring, or the controlled substance is found in a
310 place or under circumstances indicating that the person had the ability and the intent
311 to exercise dominion and control over [it] the controlled substance.

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

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

318 (i) orally or in writing; or

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

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

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

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

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

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

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

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

335 (2) If a term used in this chapter is not defined, the definition and terms of Title 76, Utah

336 Criminal Code, shall apply.

337 Section 4. **Effective Date.**

338 This bill takes effect on May 7, 2025.