

Effective 5/3/2023

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

- (1) As used in this section:
 - (a) "Employer" means, notwithstanding Section 34A-5-102:
 - (i) the state;
 - (ii) a county, city, town, or school district in the state; and
 - (iii) a person, including a public utility, having one or more workers or operatives regularly employed in the same business, or in or about the same establishment, under any contract of hire.
 - (b) "Immunity passport" means a document, digital record, or software application indicating that an individual is immune to a disease, whether through vaccination or infection and recovery.
 - (c) "Regulated entity" means an employer, as defined in Section 34A-6-103, that is subject to a regulation by the Centers for Medicare and Medicaid Services regarding a vaccine, unless the employer is:
 - (i) the state or a political subdivision of the state; and
 - (ii) not a health care facility as defined in Section 26B-2-201.
 - (d) "School" means the same as that term is defined in Section 53G-9-301.
 - (e) "Vaccination status" means an indication of whether an individual has received one or more doses of a vaccine.
- (2) It is a discriminatory or prohibited employment practice for an employer, on the basis of an individual's vaccination status or whether the individual has an immunity passport, to:
 - (a) refuse employment to an individual;
 - (b) bar an individual from employment; or
 - (c) discriminate against an individual in compensation or in a term, condition, or privilege of employment.
- (3) Subsection (2) does not apply to:
 - (a) a vaccination requirement by a child care program as defined in Section 26B-2-401 if the vaccination requirement is implemented in accordance with applicable provisions of state and federal law;
 - (b) a regulated entity if compliance with Subsection (2) would result in a violation of binding, mandatory regulations or requirements that affect the regulated entity's funding issued by the Centers for Medicare and Medicaid Services or the United States Centers for Disease Control and Prevention;
 - (c) a contract for goods or services entered into before May 3, 2023, if:
 - (i) application of this section would result in a substantial impairment of the contract; and
 - (ii) the contract is not between an employer and the employer's employee;
 - (d) a federal contractor;
 - (e) an employer vaccination requirement of an employee who, as determined by the employer, has direct exposure to human blood, human fecal matter, or other potentially infectious materials that may expose the employee to hepatitis or tuberculosis; or
 - (f) an employer that:
 - (i) establishes a nexus between a vaccination requirement and the employee's assigned duties and responsibilities; or
 - (ii) identifies an external requirement for vaccination that is not imposed by the employer and is related to the employee's duties and responsibilities.
- (4) Nothing in this section prohibits an employer from recommending that an employee receive a vaccine.

Enacted by Chapter 275, 2023 General Session