

Senator Michael S. Kennedy proposes the following substitute bill:

EMPLOYEE MEDICAL PROTECTION ACT

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael S. Kennedy

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts the Employee Medical Protection Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits an employer from requiring an employee, a prospective employee, or a blood relative of an employee or prospective employee to receive a vaccine;
- ▶ establishes liability for an employer violation of the Employee Medical Protection Act;
- ▶ limits an employer's liability for compliance with the Employee Medical Protection Act; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



- 26 [34A-12-101](#), Utah Code Annotated 1953
 - 27 [34A-12-102](#), Utah Code Annotated 1953
 - 28 [34A-12-201](#), Utah Code Annotated 1953
 - 29 [34A-12-202](#), Utah Code Annotated 1953
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31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section [34A-12-101](#) is enacted to read:

33 **CHAPTER 12. EMPLOYEE MEDICAL PROTECTION ACT**

34 **[34A-12-101](#). Title.**

35 This chapter is known as the "Employee Medical Protection Act."

36 Section 2. Section [34A-12-102](#) is enacted to read:

37 **[34A-12-102](#). Definitions.**

38 As used in this chapter:

39 (1) "Airline" means the same as that term is defined in Section [59-2-102](#).

40 (2) (a) "Employer" means, except as provided in Subsection (2)(b), the same as that
41 term is defined in Section [34A-2-103](#).

42 (b) "Employer" does not include a person:

43 (i) who employs an individual who works:

44 (A) at a health care facility; or

45 (B) in a position within the health care industry in which there is physical interaction
46 with patients;

47 (ii) who is under contract with the United States Department of Defense; or

48 (iii) whose employees primarily work in the person's private residence.

49 (3) "Blood relative" means the same as that term is defined Section [26-45-102](#).

50 (4) "Health care facility" means the same as that term is defined in Section [26-21-2](#).

51 (5) "Vaccine" means a substance that is:

52 (a) (i) licensed for use by the United States Food and Drug Administration; or

53 (ii) authorized for use by the United States Food and Drug Administration under an
54 emergency use authorization under 21 U.S.C. Sec. 360bbb-3;

55 (b) injected into or otherwise administered to an individual; and

56 (c) intended to immunize the individual against a disease or illness.

57 Section 3. Section 34A-12-201 is enacted to read:

58 **34A-12-201. Employer prohibitions.**

59 (1) Except as provided in Subsection (2), an employer may not require any of the
60 following to receive a vaccine:

- 61 (a) an employee;
- 62 (b) a prospective employee; or
- 63 (c) a blood relative of an employee or prospective employee.

64 (2) Subsection (1) does not apply if:

65 (a) the employee or prospective employee works or will work:

66 (i) for the Department of Health created in Section 26-1-4; and

67 (ii) directly with a health care facility; or

68 (b) (i) the employee or the prospective employee works or will work:

69 (A) for an airline; and

70 (B) in a position that requires interstate or international travel on the airline's airplanes;

71 and

72 (ii) any of the following require the employee or prospective employee to receive a
73 vaccine to travel on the airline's airplane:

74 (A) the federal government;

75 (B) a state to which the employee or prospective employee travels or is expected to
76 travel; or

77 (C) a country to which the employee or prospective employee travels or is expected to
78 travel.

79 Section 4. Section 34A-12-202 is enacted to read:

80 **34A-12-202. Employer liability.**

81 (1) In a civil action seeking enforcement or claiming a violation of this chapter, an
82 employer is liable for any and all injury and damage caused by the employer's violation of this
83 chapter.

84 (2) An employer is not liable under this chapter for an employee, a prospective
85 employee, or a blood relative of an employee or prospective employee's injury or damage
86 arising from the employer's compliance with this chapter.