

Senator Kirk A. Cullimore proposes the following substitute bill:

WORKPLACE COVID-19 AMENDMENTS

2021 SECOND SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill enacts provisions related to COVID-19 vaccination and testing in the workplace.

Highlighted Provisions:

This bill:

- ▶ requires an employer to relieve an employee of a COVID-19 vaccination mandate under certain conditions;
- ▶ requires an employer to pay for COVID-19 workplace testing;
- ▶ prohibits an adverse action against an employee who claims relief; and
- ▶ prohibits an employer from keeping or maintaining a record or copy of an employee’s proof of vaccination, except under certain conditions.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

26-68-201, Utah Code Annotated 1953



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

Section 1. Section **26-68-201** is enacted to read:

26-68-201. Employee COVID-19 vaccination and testing.

(1) As used in this section:

(a) (i) "Adverse action" means an action that results in:

(A) the refusal to hire a potential employee; or

(B) the termination of employment, demotion, or reduction of wages of an employee.

(ii) "Adverse action" does not include:

(A) an employer's reassignment of an employee; or

(B) the termination of an employee, if reassignment of the employee is not practical.

(b) "COVID-19 vaccine" means a substance that is:

(i) (A) approved for use by the United States Food and Drug Administration; or

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

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

(iii) intended to immunize an individual against COVID-19 as defined in Section [78B-4-517](#).

(c) "Employee" means an individual suffered or permitted to work by an employer.

(d) (i) Except as provided in Subsection (1)(d)(ii), "employer" means the same as that term is defined in Section [34A-6-103](#).

(ii) "Employer" does not include:

(A) a Medicare- or Medicaid-certified provider or supplier that is subject to a regulation by the Centers for Medicare and Medicaid Services regarding a COVID-19 vaccine;

or

(B) a federal contractor.

(e) "Workplace" means the same as that term is defined in Section [34A-6-103](#).

(2) Except as provided in Subsection (6), an employer who requires an employee or prospective employee to receive or show proof that the employee or prospective employee has received a COVID-19 vaccine shall relieve the employee or prospective employee of the requirement if the employee or prospective employee submits to the employer a statement that

57 receiving a COVID-19 vaccine would:

58 (a) be injurious to the health and well-being of the employee or prospective employee;

59 (b) conflict with a sincerely held religious belief, practice, or observance of the
60 employee or prospective employee; or

61 (c) conflict with a sincerely held personal belief of the employee or prospective
62 employee.

63 (3) Except as provided in Subsection (6), an employer shall pay for all COVID-19
64 testing an employee receives in relation to or as a condition of the employee's presence at the
65 workplace.

66 (4) Except as provided in Subsection (6), an employer may not take an adverse action
67 against an employee because of an act the employee makes in accordance with this section.

68 (5) (a) An employer may not keep or maintain a record or copy of an employee's proof
69 of vaccination, unless:

70 (i) otherwise required by law;

71 (ii) an established business practice or industry standard requires otherwise; or

72 (iii) the provisions of this section do not apply as described in Subsection (6)(a).

73 (b) Subsection (5)(a) does not prohibit an employer from recording whether an
74 employee is vaccinated.

75 (6) (a) The provisions of this section do not apply to a contract for goods or services
76 entered into before November 5, 2021, unless the contract is between an employer and the
77 employer's employee.

78 (b) An employer may require an employee or prospective employee to receive or show
79 proof that the employee or prospective employee has received a COVID-19 vaccination
80 without providing the relief described in Subsection (2), if the employer:

81 (i) employs fewer than 15 employees; and

82 (ii) establishes a nexus between the requirement and the employee's assigned duties
83 and responsibilities.

84 **Section 2. Effective date.**

85 If approved by two-thirds of all the members elected to each house, this bill takes effect
86 upon approval by the governor, or the day following the constitutional time limit of Utah
87 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,

88 the date of veto override.