

Representative Walt Brooks proposes the following substitute bill:

VACCINE PASSPORT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Walt Brooks

Senate Sponsor: Michael S. Kennedy

6	Cosponsors:	Dan N. Johnson	Douglas V. Sagers
7	Nelson T. Abbott	Michael L. Kohler	Mike Schultz
8	Cheryl K. Acton	Karianne Lisonbee	Travis M. Seegmiller
9	Carl R. Albrecht	Steven J. Lund	Rex P. Shipp
10	Kera Birkeland	Phil Lyman	V. Lowry Snow
11	Brady Brammer	A. Cory Maloy	Keven J. Stratton
12	Jefferson S. Burton	Jefferson Moss	Mark A. Strong
13	Kay J. Christofferson	Calvin R. Musselman	Christine F. Watkins
14	Joel Ferry	Michael J. Petersen	Stephen L. Whyte
15	Jon Hawkins	Val L. Peterson	Ryan D. Wilcox
16	Ken Ivory	Adam Robertson	

LONG TITLE

General Description:

This bill enacts a prohibition on the use of an individual's immunity status by places of public accommodation, governmental entities, and employers.

Highlighted Provisions:

This bill:

- ▶ makes it unlawful for a place of public accommodation to discriminate against an



25 individual based on the individual's immunity status;

26 ▶ with certain exceptions, prohibits a governmental entity from requiring proof of
27 immunity status;

28 ▶ with certain exceptions, makes it unlawful discrimination for an employer to require
29 proof of immunity status; and

30 ▶ prohibits a governmental entity or employer from requiring an individual to receive
31 a vaccine.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **63D-2-102**, as last amended by Laws of Utah 2021, Chapter 345

39 **63I-1-226**, as last amended by Laws of Utah 2021, Chapters 13, 50, 64, 163, 182, 234,
40 and 417

41 ENACTS:

42 **13-7-5**, Utah Code Annotated 1953

43 **26-68-103**, Utah Code Annotated 1953

44 **34A-5-113**, Utah Code Annotated 1953

45 REPEALS:

46 **26-68-101**, as enacted by Laws of Utah 2021, Chapter 182

47 **26-68-102**, as enacted by Laws of Utah 2021, Chapter 182



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

50 Section 1. Section **13-7-5** is enacted to read:

51 **13-7-5. Equal right in business establishments, places of public accommodation,**
52 **and enterprises regulated by the state based on immunity status.**

53 (1) As used in this section, "immunity status" means an indication of whether an
54 individual is immune to a disease, whether through vaccination or infection and recovery.

55 (2) All persons within the jurisdiction of this state are free and equal and are entitled to

56 full and equal accommodations, advantages, facilities, privileges, goods, and services in all
 57 business establishments and in all places of public accommodation, and by all enterprises
 58 regulated by the state of every kind whatsoever, without discrimination on the basis of
 59 immunity status.

60 (3) Nothing in this section shall be construed to deny any person the right to regulate
 61 the operation of a business establishment or place of public accommodation or an enterprise
 62 regulated by the state in a manner which applies uniformly to all persons without regard to
 63 immunity status, or to deny any religious organization the right to regulate the operation and
 64 procedures of the religious organization's establishments.

65 (4) (a) The provisions in Section 13-7-4 shall apply to enforcement and violations of
 66 this section.

67 (b) Upon application to the attorney general by any person denied the rights guaranteed
 68 by this section, the attorney general shall investigate and seek to conciliate the matter.

69 Section 2. Section **26-68-103** is enacted to read:

70 **CHAPTER 68. COVID-19 VACCINE AND IMMUNITY**
 71 **PASSPORT RESTRICTIONS ACT**

72 **26-68-103. Prohibition on requiring immunity passports or vaccination --**
 73 **Exceptions.**

74 (1) As used in this section:

75 (a) "Governmental entity" means the same as that term is defined in Section
 76 63D-2-102.

77 (b) "Immunity passport" means a document, digital record, or software application
 78 indicating that an individual is immune to a disease, whether through vaccination or infection
 79 and recovery.

80 (c) "Regulated entity" means an employer, as defined in Section 34A-6-103, that is
 81 subject to a regulation by the Centers for Medicare and Medicaid Services regarding a
 82 ↳ [COVID-19] vaccine, unless the employer is:

83 (i) the state or a political subdivision of the state; and

84 (ii) not ↳ :

84a (A) ↳ an academic medical center ↳ [] ; or

84b (B) a health care facility as defined in Section 26-21-2. ↳

85 (d) "Vaccination status" means an indication of whether an individual has received one
 86 or more doses of a vaccine.

87 (2) A governmental entity may not:

88 (a) refuse, withhold from, or deny to an individual any local or state service, good,
 89 facility, advantage, privilege, license, educational opportunity, health care access, or
 90 employment opportunity based on the individual's vaccination status, including whether the
 91 individual has an immunity passport; or

92 (b) require any individual, directly or indirectly, to receive a vaccine.

93 (3) Subsection (2) does not apply to:

94 (a) a vaccination requirement by a degree-granting institution of higher education, if
 95 the vaccination requirement is implemented in accordance with Section 53B-2-113;

96 (b) a vaccination requirement by a school if the vaccination requirement is
 97 implemented in accordance with Title 53G, Chapter 9, Part 3, Immunization Requirements;

98 (c) a child care program as defined in Section 26-39-102 if the vaccination requirement
 99 is implemented in accordance with applicable provisions of state and federal law;

100 (d) a regulated entity if compliance with Subsection (2) would result in a violation of
 101 binding, mandatory regulations or requirements that affect the regulated entity's funding issued
 102 by the Centers for Medicare and Medicaid Services or the United States Centers for Disease
 103 Control and Prevention;

104 (e) a recommendation by a governmental entity that an employee receive a vaccine;

105 (f) a contract for goods or services entered into before May 4, 2022, if:

106 (i) application of this section would result in a substantial impairment of the contract;

107 and

108 (ii) the contract is not between an employer and the employer's employee; ~~H~~→ [or]

108a (g) a federal contractor; or ~~H~~

109 ~~H~~→ [(g)] (h) ~~H~~ a governmental entity, as defined in Section 63D-2-102, with respect to an
 110 employee of the governmental entity if:

111 (i) the employee has, as part of the employee's duties, direct exposure to human blood,
 112 human fecal matter, or other potentially infectious materials that may expose the employee to:

113 (A) hepatitis; or

114 (B) tuberculosis; and

115 (ii) the governmental entity allows the employee to decline vaccination if the employee
 116 submits to the governmental entity a written statement that receiving the vaccine would:

117 (A) be injurious to the health and well-being of the employee;

118 (B) conflict with a sincerely held religious belief, practice, or observance of the
 119 employee; or

120 (C) conflict with a sincerely held personal belief of the employee.

121 Section 3. Section **34A-5-113** is enacted to read:

122 **34A-5-113. Prohibition on requiring immunity passports and discrimination**
 123 **based on immunity status - Exceptions.**

124 (1) As used in this section:

125 (a) "Employer" means, notwithstanding Section [34A-5-102](#):

126 (i) the state;

127 (ii) a county, city, town, or school district in the state; and

128 (iii) a person, including a public utility, having one or more workers or operatives
 129 regularly employed in the same business, or in or about the same establishment, under any
 130 contract of hire.

131 (b) "Immunity passport" means a document, digital record, or software application
 132 indicating that an individual is immune to a disease, whether through vaccination or infection
 133 and recovery.

134 (c) "Regulated entity" means an employer, as defined in Section [34A-6-103](#), that is
 135 subject to a regulation by the Centers for Medicare and Medicaid Services regarding a
 136 ~~COVID-19~~ vaccine, unless the employer is:

137 (i) the state or a political subdivision of the state; and

138 (ii) not ~~an~~ :

138a (A) ~~an~~ an academic medical center ~~is~~ ; or

138b (B) a health care facility as defined in Section 26-21-2. ~~is~~

139 (d) "School" means the same as that term is defined in Section [53G-9-301](#).

140 (e) "Vaccination status" means an indication of whether an individual has received one
 141 or more doses of a vaccine.

142 (2) It is a discriminatory or prohibited employment practice for an employer, on the
 143 basis of an individual's vaccination status or whether the individual has an immunity passport,
 144 to:

145 (a) refuse employment to an individual;

146 (b) bar an individual from employment; or

147 (c) discriminate against an individual in compensation or in a term, condition, or
 148 privilege of employment.

149 (3) Subsection (2) does not apply to:

150 (a) a vaccination requirement by a child care program as defined in Section 26-39-102
 151 if the vaccination requirement is implemented in accordance with applicable provisions of state
 152 and federal law;

153 (b) a regulated entity if compliance with Subsection (2) would result in a violation of
 154 binding, mandatory regulations or requirements that affect the regulated entity's funding issued
 155 by the Centers for Medicare and Medicaid Services or the United States Centers for Disease
 156 Control and Prevention;

157 (c) a recommendation by an employer that an employee receive a vaccine;

158 (d) a contract for goods or services entered into before May 4, 2022, if:

159 (i) application of this section would result in a substantial impairment of the contract;

160 and

161 (ii) the contract is not between an employer and the employer's employee; ~~or~~

161a (e) a federal contractor; or ~~or~~

162 ~~\hat{H} \rightarrow [(e) a governmental entity, as defined in Section 63D-2-102;]~~ (f) an employer ~~\leftarrow \hat{H}~~ with
 162a respect to an

163 employee ~~\hat{H} \rightarrow [of the governmental entity]~~ ~~\leftarrow \hat{H}~~ if:

164 (i) the employee has, as part of the employee's duties, direct exposure to human blood,
 165 human fecal matter, or other potentially infectious materials that may expose the employee to:

166 (A) hepatitis; or

167 (B) tuberculosis; and

168 (ii) the ~~\hat{H} \rightarrow [governmental entity]~~ employer ~~\leftarrow \hat{H}~~ allows the employee to decline vaccination
 168a if the employee

169 submits to the ~~\hat{H} \rightarrow [governmental entity]~~ employer ~~\leftarrow \hat{H}~~ a written statement that receiving the
 169a vaccine would:

170 (A) be injurious to the health and well-being of the employee;

171 (B) conflict with a sincerely held religious belief, practice, or observance of the
 172 employee; or

173 (C) conflict with a sincerely held personal belief of the employee.

174 Section 4. Section 63D-2-102 is amended to read:

175 **63D-2-102. Definitions.**

176 As used in this chapter:

177 (1) (a) "Collect" means the gathering of personally identifiable information:

178 (i) from a user of a governmental website; or

179 (ii) about a user of the governmental website.

180 (b) "Collect" includes use of any identifying code linked to a user of a governmental
181 website.

182 (2) "Court website" means a website on the Internet that is operated by or on behalf of
183 any court created in Title 78A, Chapter 1, Judiciary.

184 (3) "Governmental entity" means:

- 185 (a) an executive branch agency as defined in Section [63A-16-102](#);
- 186 (b) the legislative branch;
- 187 (c) the judicial branch;
- 188 (d) the State Board of Education;
- 189 (e) the Utah Board of Higher Education;
- 190 (f) an institution of higher education as defined in Section [53B-1-102](#); and
- 191 (g) a political subdivision of the state:
 - 192 (i) as defined in Section [17B-1-102](#); and
 - 193 (ii) including a school district.

194 (4) (a) "Governmental website" means a website on the Internet that is operated by or
195 on behalf of a governmental entity.

196 (b) "Governmental website" includes a court website.

197 (5) "Governmental website operator" means a governmental entity or person acting on
198 behalf of the governmental entity that:

- 199 (a) operates a governmental website; and
- 200 (b) collects or maintains personally identifiable information from or about a user of
201 that website.

202 (6) "Personally identifiable information" means information that identifies:

- 203 (a) a user by:
 - 204 (i) name;
 - 205 (ii) account number;
 - 206 (iii) physical address;
 - 207 (iv) email address;
 - 208 (v) telephone number;
 - 209 (vi) Social Security number;
 - 210 (vii) credit card information; or

- 211 (viii) bank account information;
- 212 (b) a user as having requested or obtained specific materials or services from a
- 213 governmental website;
- 214 (c) Internet sites visited by a user; or
- 215 (d) any of the contents of a user's data-storage device.
- 216 (7) "User" means a person who accesses a governmental website.
- 217 Section 5. Section **63I-1-226** is amended to read:
- 218 **63I-1-226. Repeal dates, Title 26.**
- 219 (1) Subsection [26-1-7\(1\)\(f\)](#), related to the Residential Child Care Licensing Advisory
- 220 Committee, is repealed July 1, 2024.
- 221 (2) Subsection [26-1-7\(1\)\(h\)](#), related to the Primary Care Grant Committee, is repealed
- 222 July 1, 2025.
- 223 (3) Section [26-1-7.5](#), which creates the Utah Health Advisory Council, is repealed July
- 224 1, 2025.
- 225 (4) Section [26-1-40](#) is repealed July 1, 2022.
- 226 (5) Section [26-1-41](#) is repealed July 1, 2026.
- 227 (6) Section [26-7-10](#) is repealed July 1, 2025.
- 228 (7) Subsection [26-7-11\(5\)](#), regarding reports to the Legislature, is repealed July 1,
- 229 2028.
- 230 (8) Section [26-7-14](#) is repealed December 31, 2027.
- 231 (9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
- 232 1, 2025.
- 233 (10) Subsection [26-10-6\(5\)](#), which creates the Newborn Hearing Screening Committee,
- 234 is repealed July 1, 2026.
- 235 (11) Section [26-10b-106](#), which creates the Primary Care Grant Committee, is repealed
- 236 July 1, 2025.
- 237 (12) Subsection [26-15c-104\(3\)](#), relating to a limitation on the number of
- 238 microenterprise home kitchen permits that may be issued, is repealed on July 1, 2022.
- 239 (13) Subsection [26-18-2.6\(9\)](#), which addresses reimbursement for dental hygienists, is
- 240 repealed July 1, 2028.
- 241 (14) Section [26-18-27](#) is repealed July 1, 2025.

242 (15) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1,
243 2027.

244 (16) Subsection 26-18-418(2), the language that states "and the Behavioral Health
245 Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

246 (17) Section 26-33a-117 is repealed on December 31, 2023.

247 (18) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

248 (19) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1,
249 2024.

250 (20) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed
251 July 1, 2024.

252 (21) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

253 (22) Section 26-39-201, which creates the Residential Child Care Licensing Advisory
254 Committee, is repealed July 1, 2024.

255 (23) Section 26-40-104, which creates the Utah Children's Health Insurance Program
256 Advisory Council, is repealed July 1, 2025.

257 (24) Section 26-50-202, which creates the Traumatic Brain Injury Advisory
258 Committee, is repealed July 1, 2025.

259 (25) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and
260 Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

261 (26) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed
262 July 1, 2026.

263 (27) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1,
264 2026.

265 [~~(28) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1,~~
266 ~~2024.~~]

267 Section 6. **Repealer.**

268 This bill repeals:

269 Section 26-68-101, Title.

270 Section 26-68-102, Governmental entities prohibited from requiring a COVID-19
271 vaccine.