

VACCINE PASSPORT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Walt Brooks

Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill enacts requirements regarding the use of an individual's immunity status.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes it unlawful for a place of public accommodation to discriminate against an individual based on the individual's immunity status;
- ▶ with certain exceptions, prohibits a governmental entity from requiring proof of immunity status;
- ▶ with certain exceptions, makes it unlawful discrimination for an employer to require proof of immunity status; and
- ▶ prohibits a governmental entity or employer from requiring an individual to receive a vaccine if the vaccine is authorized for emergency use or undergoing safety trials.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-7-1, as last amended by Laws of Utah 2018, Chapter 130



28 **13-7-2**, as last amended by Laws of Utah 2018, Chapter 130
 29 **13-7-3**, as last amended by Laws of Utah 2018, Chapter 130
 30 **26-68-101**, as enacted by Laws of Utah 2021, Chapter 182
 31 **63I-1-226**, as last amended by Laws of Utah 2021, Chapters 13, 50, 64, 163, 182, 234,

32 and 417

33 ENACTS:

34 **26-68-103**, Utah Code Annotated 1953
 35 **34A-5-113**, Utah Code Annotated 1953



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

38 Section 1. Section **13-7-1** is amended to read:

39 **13-7-1. Policy and purposes of act.**

40 It is hereby declared that the practice of discrimination on the basis of race, color, sex,
 41 pregnancy, religion, ancestry, immunity status, or national origin in business establishments or
 42 places of public accommodation or in enterprises regulated by the state endangers the health,
 43 safety, and general welfare of this state and its inhabitants; and that such discrimination in
 44 business establishments or places of public accommodation or in enterprises regulated by the
 45 state, violates the public policy of this state. It is the purpose of this act to assure all citizens
 46 full and equal availability of all goods, services and facilities offered by business
 47 establishments and places of public accommodation and enterprises regulated by the state
 48 without discrimination because of race, color, sex, pregnancy, religion, ancestry, immunity
 49 status, or national origin. The rules of common law that statutes in derogation thereof shall be
 50 strictly construed has no application to this act. This act shall be liberally construed with a
 51 view to promote the policy and purposes of the act and to promote justice. The remedies
 52 provided herein are not exclusive but are in addition to any other remedies available at law or
 53 equity.

54 Section 2. Section **13-7-2** is amended to read:

55 **13-7-2. Definitions.**

56 As used in this chapter:

57 (1) "Enterprise regulated by the state" means:

58 (a) an institution subject to regulation under Title 70C, Utah Consumer Credit Code;

59 (b) a place of business that sells an alcoholic product at retail as provided in Title 32B,
60 Alcoholic Beverage Control Act;

61 (c) an insurer regulated by Title 31A, Insurance Code; and

62 (d) a public utility subject to regulation under Title 54, Public Utilities.

63 (2) "Immunity status" means an indication of whether an individual is immune to a
64 disease, whether through vaccination or infection and recovery.

65 [~~2~~] (3) "Person" includes an individual, partnership, association, organization,
66 corporation, labor union, legal representative, trustee, trustee in bankruptcy, receiver, and other
67 organized groups of persons.

68 [~~3~~] (4) (a) "Place of public accommodation" includes:

69 (i) every place, establishment, or facility of whatever kind, nature, or class that caters
70 or offers services, facilities, or goods to the general public for a fee or charge, except, an
71 establishment that is:

72 (A) located within a building that contains not more than five rooms for rent or hire;
73 and

74 (B) actually occupied by the proprietor of the establishment as the proprietor's
75 residence; and

76 (ii) a place, establishment, or facility that caters or offers services, facilities, or goods
77 to the general public gratuitously if the place, establishment, or facility receives any substantial
78 governmental subsidy or support.

79 (b) "Place of public accommodation" does not include an institution, church, apartment
80 house, club, or place of accommodation that is in nature distinctly private except to the extent
81 that the institution, church, apartment house, club, or place of accommodation is open to the
82 public.

83 [~~4~~] (5) "Pregnancy" includes pregnancy or a pregnancy-related condition.

84 [~~5~~] (6) "Pregnancy-related condition" includes breastfeeding, lactation, or a medical
85 condition related to breastfeeding.

86 Section 3. Section 13-7-3 is amended to read:

87 **13-7-3. Equal right in business establishments, places of public accommodation,**
88 **and enterprises regulated by the state.**

89 All persons within the jurisdiction of this state are free and equal and are entitled to full

90 and equal accommodations, advantages, facilities, privileges, goods and services in all business
 91 establishments and in all places of public accommodation, and by all enterprises regulated by
 92 the state of every kind whatsoever, without discrimination on the basis of race, color, sex,
 93 pregnancy, religion, immunity status, ancestry, or national origin. Nothing in this act shall be
 94 construed to deny any person the right to regulate the operation of a business establishment or
 95 place of public accommodation or an enterprise regulated by the state in a manner which
 96 applies uniformly to all persons without regard to race, color, sex, pregnancy, religion,
 97 ancestry, immunity status, or national origin; or to deny any religious organization the right to
 98 regulate the operation and procedures of [its] the religious organization's establishments.

99 Section 4. Section **26-68-101** is amended to read:

100 **CHAPTER 68. COVID-19 VACCINE AND IMMUNITY**
 101 **PASSPORT RESTRICTIONS ACT**

102 **26-68-101. Title.**

103 This chapter is known as the "COVID-19 Vaccine and Immunity Passport Restrictions
 104 Act."

105 Section 5. Section **26-68-103** is enacted to read:

106 **26-68-103. Prohibition on requiring immunity passports.**

107 (1) As used in this section:

108 (a) "Governmental entity" means the same as that term is defined in Section
 109 63D-2-102.

110 (b) "Health care facility" means the same as that term is defined in Section 26-21-2.

111 (c) "Immunity passport" means a document, digital record, or software application
 112 indicating that an individual is immune to a disease, whether through vaccination or infection
 113 and recovery.

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

116 (2) A governmental entity may not refuse, withhold from, or deny to an individual any
 117 local or state service, good, facility, advantage, privilege, license, educational opportunity,
 118 health care access, or employment opportunity based on the individual's vaccination status,
 119 including whether the individual has an immunity passport.

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

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

123 (b) a school or a child care program as defined in Section 26-39-102 if the vaccination
124 requirement is implemented in accordance with applicable provisions of state and federal law;

125 (c) a licensed nursing home, long-term care facility, or assisted living facility if
126 compliance with Subsection (2) would result in a violation of regulations or guidance issued by
127 the Centers for Medicare and Medicaid Services or the United States Centers for Disease
128 Control and Prevention;

129 (d) a recommendation by a governmental entity that an employee receive a vaccine; or

130 (e) a health care facility that asks an employee to volunteer the employee's vaccination
131 status for the purpose of determining whether the health care facility should implement
132 reasonable accommodation measures to protect the health and safety of employees, patients,
133 visitors, and other persons from communicable diseases if the health care facility:

134 (i) asks an employee to volunteer the employee's vaccination or immunization status
135 for the purpose of determining whether the health care facility should implement reasonable
136 accommodation measures to protect the safety and health of employees, patients, visitors, and
137 other persons from communicable diseases; and

138 (ii) implements reasonable accommodation measures for employees, patients, visitors,
139 and other individuals who are not vaccinated or not immune to protect the safety and health of
140 employees, patients, visitors, and other individuals from communicable diseases.

141 (4) For purposes of determining whether reasonable accommodation measures should
142 be implemented, a health care facility may consider an employee to be nonvaccinated or
143 nonimmune if the employee declines to provide the employee's vaccination status to the health
144 care facility.

145 (5) A governmental entity may not require any individual, directly or indirectly, to
146 receive any vaccine:

147 (a) that is authorized for use under an emergency use authorization under 21 U.S.C.
148 Sec. 360bbb-3; or

149 (b) undergoing safety trials.

150 Section 6. Section 34A-5-113 is enacted to read:

151 **34A-5-113. Prohibition on requiring immunity passports.**

152 (1) As used in this section:

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

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

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

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

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

163 (a) refuse employment to an individual;

164 (b) bar an individual from employment; or

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

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

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

170 (b) a vaccination requirement by a child care program as defined in Section [26-39-102](#)
171 if the vaccination requirement is implemented in accordance with applicable provisions of state
172 and federal law;

173 (c) a licensed nursing home, long-term care facility, or assisted living facility if
174 compliance with Subsection (2) would result in a violation of regulations or guidance issued by
175 the Centers for Medicare and Medicaid Services or the United States Centers for Disease
176 Control and Prevention;

177 (d) a recommendation by an employer that an employee receive a vaccine; or

178 (e) a health care facility that asks an employee to volunteer the employee's vaccination
179 status for the purpose of determining whether the health care facility should implement
180 reasonable accommodation measures to protect the health and safety of employees, patients,
181 visitors, and other persons from communicable diseases if the health care facility:

182 (i) asks an employee to volunteer the employee's vaccination or immunization status

183 for the purpose of determining whether the health care facility should implement reasonable
184 accommodation measures to protect the safety and health of employees, patients, visitors, and
185 other persons from communicable diseases; and

186 (ii) implements reasonable accommodation measures for employees, patients, visitors,
187 and other individuals who are not vaccinated or not immune to protect the safety and health of
188 employees, patients, visitors, and other individuals from communicable diseases.

189 (4) An employer may not require any individual, directly or indirectly, to receive any
190 vaccine:

191 (a) that is authorized for use under an emergency use authorization under 21 U.S.C.
192 Sec. 360bbb-3; or

193 (b) undergoing safety trials.

194 Section 7. Section **63I-1-226** is amended to read:

195 **63I-1-226. Repeal dates, Title 26.**

196 (1) Subsection **26-1-7(1)(f)**, related to the Residential Child Care Licensing Advisory
197 Committee, is repealed July 1, 2024.

198 (2) Subsection **26-1-7(1)(h)**, related to the Primary Care Grant Committee, is repealed
199 July 1, 2025.

200 (3) Section **26-1-7.5**, which creates the Utah Health Advisory Council, is repealed July
201 1, 2025.

202 (4) Section **26-1-40** is repealed July 1, 2022.

203 (5) Section **26-1-41** is repealed July 1, 2026.

204 (6) Section **26-7-10** is repealed July 1, 2025.

205 (7) Subsection **26-7-11(5)**, regarding reports to the Legislature, is repealed July 1,
206 2028.

207 (8) Section **26-7-14** is repealed December 31, 2027.

208 (9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
209 1, 2025.

210 (10) Subsection **26-10-6(5)**, which creates the Newborn Hearing Screening Committee,
211 is repealed July 1, 2026.

212 (11) Section **26-10b-106**, which creates the Primary Care Grant Committee, is repealed
213 July 1, 2025.

- 214 (12) Subsection [26-15c-104\(3\)](#), relating to a limitation on the number of
215 microenterprise home kitchen permits that may be issued, is repealed on July 1, 2022.
- 216 (13) Subsection [26-18-2.6\(9\)](#), which addresses reimbursement for dental hygienists, is
217 repealed July 1, 2028.
- 218 (14) Section [26-18-27](#) is repealed July 1, 2025.
- 219 (15) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1,
220 2027.
- 221 (16) Subsection [26-18-418\(2\)](#), the language that states "and the Behavioral Health
222 Crisis Response Commission created in Section [63C-18-202](#)" is repealed July 1, 2023.
- 223 (17) Section [26-33a-117](#) is repealed on December 31, 2023.
- 224 (18) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.
- 225 (19) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1,
226 2024.
- 227 (20) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed
228 July 1, 2024.
- 229 (21) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.
- 230 (22) Section [26-39-201](#), which creates the Residential Child Care Licensing Advisory
231 Committee, is repealed July 1, 2024.
- 232 (23) Section [26-40-104](#), which creates the Utah Children's Health Insurance Program
233 Advisory Council, is repealed July 1, 2025.
- 234 (24) Section [26-50-202](#), which creates the Traumatic Brain Injury Advisory
235 Committee, is repealed July 1, 2025.
- 236 (25) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and
237 Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.
- 238 (26) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed
239 July 1, 2026.
- 240 (27) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1,
241 2026.
- 242 (28) [~~Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act,~~] Section [26-68-102](#) is
243 repealed July 1, 2024.