

HB0060S01 compared with HB0060

~~deleted text~~ shows text that was in HB0060 but was deleted in HB0060S01.

inserted text shows text that was not in HB0060 but was inserted into HB0060S01.

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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

Cosponsors:

<u>Dan N. Johnson</u>	<u>Douglas V. Sagers</u>
<u>Nelson T. Abbott</u>	<u>Mike Schultz</u>
<u>Cheryl K. Acton</u>	<u>Travis M. Seegmiller</u>
<u>Carl R. Albrecht</u>	<u>Rex P. Shipp</u>
<u>Kera Birkeland</u>	<u>V. Lowry Snow</u>
<u>Brady Brammer</u>	<u>Keven J. Stratton</u>
<u>Jefferson S. Burton</u>	<u>Mark A. Strong</u>
<u>Kay J. Christofferson</u>	<u>Christine F. Watkins</u>
<u>Joel Ferry</u>	<u>Stephen L. Whyte</u>
<u>Jon Hawkins</u>	<u>Ryan D. Wilcox</u>
<u>Ken Ivory</u>	<u>Adam Robertson</u>

LONG TITLE

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General Description:

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

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}~~ 63D-2-102, as last amended by Laws of Utah ~~{2018}~~ 2021, Chapter ~~{130}~~ 345

~~{13-7-2}~~ 63I-1-226, as last amended by Laws of Utah ~~{2018}~~ 2021, ~~{Chapter 130~~

~~13-7-3~~, as last amended by Laws of Utah 2018, Chapter 130} Chapters 13, 50, 64, 163, 182, 234, and 417

ENACTS:

13-7-5, Utah Code Annotated 1953

26-68-103, Utah Code Annotated 1953

34A-5-113, Utah Code Annotated 1953

REPEALS:

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

~~{63I-1-226}~~26-68-102, as ~~{last amended}~~enacted by Laws of Utah 2021, ~~{Chapters 13, 50, 64, 163,}~~Chapter 182~~{, 234, and 417}~~

ENACTS:

~~———— 26-68-103, Utah Code Annotated 1953~~

~~———— 34A-5-113, Utah Code Annotated 1953}~~

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

Section 1. Section ~~{13-7-1}~~13-7-5 is ~~{amended}~~enacted to read:

~~{13-7-1}~~13-7-5.~~{— Policy and purposes of act.~~

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

~~———— Section 2. Section 13-7-2 is amended to read:~~

~~———— 13-7-2. Definitions.~~

~~———— }based on immunity status.~~

~~(1) As used in this {chapter:~~

~~———— (1) "Enterprise regulated by the state" means:~~

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

~~———— (b) a place of business that sells an alcoholic product at retail as provided in Title 32B.~~

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Alcoholic Beverage Control Act:

~~_____ (c) an insurer regulated by Title 31A, Insurance Code, and~~

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

~~_____ (2) "Immunity"; section, "immunity status" means an indication of whether an individual is immune to a disease, whether through vaccination or infection and recovery.~~

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

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

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

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

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

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

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

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

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

~~_____ Section 3. Section ~~13-7-3~~ is amended to read:~~

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

~~_____ } (2) All persons within the jurisdiction of this state are free and equal and are entitled to full and equal accommodations, advantages, facilities, privileges, goods, and services in all~~

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business establishments and in all places of public accommodation, and by all enterprises regulated by the state of every kind whatsoever, without discrimination on the basis of ~~race, color, sex, pregnancy, religion,~~ immunity status~~, ancestry, or national origin.~~

(3) Nothing in this ~~act~~section shall be construed to deny any person the right to regulate the operation of a business establishment or place of public accommodation or an enterprise regulated by the state in a manner which applies uniformly to all persons without regard to ~~race, color, sex, pregnancy, religion, ancestry,~~ immunity status, ~~or national origin;~~ or to deny any religious organization the right to regulate the operation and procedures of ~~its~~the religious organization's establishments.

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

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

Section ~~4~~2. Section ~~26-68-101~~26-68-103 is ~~amended~~enacted to read:

CHAPTER 68. COVID-19 VACCINE AND IMMUNITY

PASSPORT RESTRICTIONS ACT

~~26-68-101. Title.~~

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

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

~~26-68-103. Prohibition on requiring immunity passports~~ or vaccination -- Exceptions.

(1) As used in this section:

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

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

~~(c) "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 a person that is subject to a regulation by the Centers for Medicare and Medicaid Services regarding a COVID-19 vaccine, unless the person is the state

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or a political subdivision of the state that is not an academic medical center.

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

(2) A governmental entity may not:

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

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

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

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

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

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

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

~~(d)~~ e) a recommendation by a governmental entity that an employee receive a vaccine~~};~~ or

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

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

~~(ii) implements reasonable accommodation measures for employees, patients, visitors,~~

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~~and other individuals who are not vaccinated or not immune to protect the safety and health of employees, patients, visitors, and other individuals from communicable diseases.~~

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

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

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

~~(b) undergoing safety trials}.~~

Section ~~{6}~~3. Section **34A-5-113** is enacted to read:

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

(1) As used in this section:

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

~~(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.

(b) "Regulated entity" means a person that is subject to a regulation by the Centers for Medicare and Medicaid Services regarding a COVID-19 vaccine, unless the person is the state or a political subdivision of the state that is not an academic medical center.

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

(d) "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

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privilege of employment.

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

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

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

~~(c) a licensed nursing home, long-term care facility, or assisted living facility; †b) a regulated entity if compliance with Subsection (2) would result in a violation of binding, mandatory regulations or guidance issued by the Centers for Medicare and Medicaid Services or the United States Centers for Disease Control and Prevention; or~~

~~(d) c) a recommendation by an employer that an employee receive a vaccine; †; or
—— (e) a health care facility that asks an employee to volunteer the employee's vaccination status for the purpose of determining whether the health care facility should implement reasonable accommodation measures to protect the health and safety of employees, patients, visitors, and other persons from communicable diseases if the health care facility:~~

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

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

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

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

~~—— (b) undergoing safety trials.};~~

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

63D-2-102. Definitions.

As used in this chapter:

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

- (i) from a user of a governmental website; or
- (ii) about a user of the governmental website.

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

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

(3) "Governmental entity" means:

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

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

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

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

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

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

- (a) a user by:
 - (i) name;
 - (ii) account number;
 - (iii) physical address;
 - (iv) email address;

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- (v) telephone number;
- (vi) Social Security number;
- (vii) credit card information; or
- (viii) bank account information;
- (b) a user as having requested or obtained specific materials or services from a governmental website;
- (c) Internet sites visited by a user; or
- (d) any of the contents of a user's data-storage device.

(7) "User" means a person who accesses a governmental website.

Section ~~77~~5. Section **63I-1-226** is amended to read:

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

- (1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.
- (2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.
- (3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.
- (4) Section 26-1-40 is repealed July 1, 2022.
- (5) Section 26-1-41 is repealed July 1, 2026.
- (6) Section 26-7-10 is repealed July 1, 2025.
- (7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.
- (8) Section 26-7-14 is repealed December 31, 2027.
- (9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.
- (10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.
- (11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.
- (12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed on July 1, 2022.

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(13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(14) Section 26-18-27 is repealed July 1, 2025.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(28) ~~{}~~ Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, ~~{}~~ [Section 26-68-102](#)] is repealed July 1, 2024.]~~

Section 6. Repealer.

This bill repeals:

Section 26-68-101, Title.

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