

HB0060S02 compared with HB0060S01

~~text~~ shows text that was in HB0060S01 but was deleted in HB0060S02.

text shows text that was not in HB0060S01 but was inserted into HB0060S02.

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

LONG TITLE

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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 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.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

63I-1-226, as last amended by Laws of Utah 2021, 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:

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

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

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

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

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

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

(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 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 immunity status.

(3) Nothing in this 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 immunity status, or to deny any religious organization the right to regulate the operation and procedures of 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 2. Section 26-68-103 is enacted to read:

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

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) "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 ~~fa person~~an employer, as defined in Section 34A-6-103,

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that is subject to a regulation by the Centers for Medicare and Medicaid Services regarding a COVID-19 vaccine, unless the ~~person~~ employer is:

(i) the state or a political subdivision of the state ~~that is~~; and

(ii) 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 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;

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

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

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

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

and

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

(g) a governmental entity, as defined in Section 63D-2-102, with respect to an employee of the governmental entity if:

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

(A) hepatitis; or

(B) tuberculosis; and

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

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

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

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

Section 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) "Employer" means, notwithstanding Section 34A-5-102:

(i) the state;

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

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

(~~f~~~~a~~~~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.

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

(i) the state or a political subdivision of the state ~~f~~ ~~that is~~; and

(ii) not an academic medical center.

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

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

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(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 privilege of employment.

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

(a) 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;

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

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

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

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

and

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

(e) a governmental entity, as defined in Section 63D-2-102, with respect to an employee of the governmental entity if:

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

(A) hepatitis; or

(B) tuberculosis; and

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

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

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

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

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

63D-2-102. Definitions.

As used in this chapter:

(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:

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- (i) name;
 - (ii) account number;
 - (iii) physical address;
 - (iv) email address;
 - (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 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.

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(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.

(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, is repealed July 1,~~

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2024.]

Section 6. **Repealer.**

This bill repeals:

Section **26-68-101, Title.**

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