

Senator Lincoln Fillmore 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:	Marsha Judkins	Judy Weeks Rohner
7	Nelson T. Abbott	Michael L. Kohler	Douglas V. Sagers
8	Cheryl K. Acton	Karianne Lisonbee	Mike Schultz
9	Carl R. Albrecht	Steven J. Lund	Travis M. Seegmiller
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13	Kay J. Christofferson	Calvin R. Musselman	Mark A. Strong
14	Joel Ferry	Michael J. Petersen	Christine F. Watkins
15	Jon Hawkins	Val L. Peterson	Stephen L. Whyte
16	Ken Ivory	Adam Robertson	
	Dan N. Johnson		

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:



- 24 ▶ 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 ▶ prohibits a governmental entity from requiring an individual to receive a vaccine;
- 29 ▶ requires an employer to exempt an employee or a prospective employee from a
- 30 vaccine requirement if the employee or prospective employee submits a primary
- 31 care provider's note stating that the employee or prospective employee was
- 32 previously infected with the disease or condition;
- 33 ▶ amends provisions related to recordkeeping;
- 34 ▶ amends scope of provisions;
- 35 ▶ prohibits an employer from keeping or maintaining a record or copy of an
- 36 employee's test results, except as otherwise required by law; and
- 37 ▶ makes technical and conforming changes.

38 **Money Appropriated in this Bill:**

39 None

40 **Other Special Clauses:**

41 None

42 **Utah Code Sections Affected:**

43 AMENDS:

44 **63D-2-102**, as last amended by Laws of Utah 2021, Chapter 345

45 **63I-1-226**, as last amended by Laws of Utah 2021, Chapters 13, 50, 64, 163, 182, 234,

46 and 417

47 ENACTS:

48 **13-7-5**, Utah Code Annotated 1953

49 **26-68-103**, Utah Code Annotated 1953

50 **34-56-102**, Utah Code Annotated 1953

51 **34-56-201**, Utah Code Annotated 1953

52 RENUMBERS AND AMENDS:

53 **34-56-101**, (Renumbered from 26-68-201, as enacted by Laws of Utah 2021, Second

54 Special Session, Chapter 9)

55 REPEALS:

56 **26-68-101**, as enacted by Laws of Utah 2021, Chapter 182

57 **26-68-102**, as enacted by Laws of Utah 2021, Chapter 182



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

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

61 **13-7-5. Equal right in business establishments, places of public accommodation,**
62 **and enterprises regulated by the state based on immunity status.**

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

65 (2) All persons within the jurisdiction of this state are free and equal and are entitled to
66 full and equal accommodations, advantages, facilities, privileges, goods, and services in all
67 business establishments and in all places of public accommodation, and by all enterprises
68 regulated by the state of every kind whatsoever, without discrimination on the basis of
69 immunity status.

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

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

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

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

80 **CHAPTER 68. VACCINE AND IMMUNITY**
81 **PASSPORT RESTRICTIONS ACT**

82 **26-68-103. Prohibition on requiring immunity passports or vaccination --**

83 **Exceptions.**

84 (1) As used in this section:

85 (a) "Governmental entity" means the same as that term is defined in Section

86 [63D-2-102.](#)

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

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

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

94 (ii) not:

95 (A) an academic medical center; or

96 (B) a health care facility as defined in Section [26-21-2](#).

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

99 (2) A governmental entity may not:

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

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

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

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

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

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

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

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

117 (f) a contract for goods or services entered into before May 4, 2022, if:
118 (i) application of this section would result in a substantial impairment of the contract;

119 and

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

121 (g) a federal contractor; or

122 (h) a governmental entity, as defined in Section [63D-2-102](#), with respect to an
123 employee of the governmental entity if:

124 (i) (A) the employee has, as part of the employee's duties, direct exposure to human
125 blood, human fecal matter, or other potentially infectious materials that may expose the
126 employee to hepatitis or tuberculosis; or

127 (B) the employee is acting in a public health or medical setting and required to receive
128 vaccinations in order to perform the employee's assigned duties and responsibilities; and

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

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

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

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

135 Section 3. Section **34-56-101**, which is renumbered from Section 26-68-201 is
136 renumbered and amended to read:

137 **CHAPTER 56. WORKPLACE HEALTH STATUS PROVISIONS**

138 **Part 1. General Provisions**

139 ~~[26-68-201]~~. **34-56-101. Definitions.**

140 [(H)] As used in this [section] chapter:

141 [(a)-(i)] (1) (a) "Adverse action" means:

142 (i) an action that results in:

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

144 (B) the termination of employment, demotion, or reduction of wages of an employee[-];

145 or

146 (ii) a governmental entity separating an employee from another employee solely
147 because of the vaccination status of the employee.

148 ~~[(ii)]~~ (b) "Adverse action" does not include~~[-(A)]~~ an employer's reassignment of an
149 employee~~[-or]~~, if the employee's vaccination status is not the only reason for the reassignment.

150 ~~[(B) the termination of an employee, if reassignment of the employee is not practical.]~~

151 ~~[(b) "COVID-19 vaccine" means a substance that is:]~~

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

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

155 ~~[(ii) injected into or otherwise administered to an individual; and]~~

156 ~~[(iii) intended to immunize an individual against COVID-19 as defined in Section
157 78B-4-517.]~~

158 ~~[(e)]~~ (2) "Employee" means an individual suffered or permitted to work by an
159 employer.

160 ~~[(d)(i)]~~ (3) (a) Except as provided in Subsection ~~[(1)(d)(ii)]~~ (3)(c), "employer" means
161 the same as that term is defined in Section [34A-6-103](#).

162 (b) Except as provided in Subsection (3)(c), "employer" includes a federal contractor.

163 ~~[(ii)]~~ (c) "Employer" does not include:

164 ~~[(A)]~~ (i) a person that is subject to a regulation by the Centers for Medicare and
165 Medicaid Services regarding a ~~[COVID-19 vaccine, unless the person is the state or a political
166 subdivision of the state that is not an academic medical center]~~ vaccine, during the period that
167 the regulation is in effect; or

168 ~~[(B) a federal contractor.]~~

169 (ii) a health care provider, as defined in Section [78B-3-403](#), that is a participating
170 provider for the Centers for Medicare and Medicaid Services.

171 (4) "Governmental entity" means the same as that term is defined in Section
172 [63D-2-102](#).

173 (5) "Nurse practitioner" means an individual who is licensed to practice as an advanced
174 practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act.

175 (6) "Physician" means an individual licensed to practice as a physician or osteopath
176 under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah
177 Osteopathic Medical Practice Act.

178 (7) "Physician assistant" means an individual who is licensed to practice as a physician

179 assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

180 (8) "Primary care provider" means a nurse practitioner, physician, or physician
181 assistant.

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

184 ~~[(e)]~~ (10) "Workplace" means the same as that term is defined in Section 34A-6-103.

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

189 ~~[a statement that receiving a COVID-19 vaccine would:]~~

190 ~~[(a) be injurious to the health and well-being of the employee or prospective~~
191 ~~employee;]~~

192 ~~[(b) conflict with a sincerely held religious belief, practice, or observance of the~~
193 ~~employee or prospective employee; or]~~

194 ~~[(c) conflict with a sincerely held personal belief of the employee or prospective~~
195 ~~employee.]~~

196 ~~[(3) Except as provided in Subsection (6), an employer shall pay for all COVID-19~~
197 ~~testing an employee receives in relation to or as a condition of the employee's presence at the~~
198 ~~workplace.]~~

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

201 ~~[(5) (a) An employer may not keep or maintain a record or copy of an employee's proof~~
202 ~~of vaccination, unless:]~~

203 ~~[(i) otherwise required by law;]~~

204 ~~[(ii) an established business practice or industry standard requires otherwise; or]~~

205 ~~[(iii) the provisions of this section do not apply as described in Subsection (6)(a).]~~

206 ~~[(b) Subsection (5)(a) does not prohibit an employer from recording whether an~~
207 ~~employee is vaccinated.]~~

208 ~~[(6) (a) The provisions of this section do not apply to a contract for goods or services~~
209 ~~entered into before November 5, 2021, unless the contract is between an employer and the~~

210 employer's employee.]

211 ~~[(b) An employer may require an employee or prospective employee to receive or show~~
212 ~~proof that the employee or prospective employee has received a COVID-19 vaccination~~
213 ~~without providing the relief described in Subsection (2), if the employer:]~~

214 ~~[(i) employs fewer than 15 employees; and]~~

215 ~~[(ii) establishes a nexus between the requirement and the employee's assigned duties~~
216 ~~and responsibilities.]~~

217 Section 4. Section 34-56-102 is enacted to read:

218 **34-56-102. Scope.**

219 If a requirement imposed on an employer under this chapter substantially impairs the
220 fulfillment of a contract entered into before May 4, 2022, to which the employer is a party, the
221 requirement does not apply to the employer with respect to that contract.

222 Section 5. Section 34-56-201 is enacted to read:

223 **Part 2. Vaccinations, Recordkeeping, and Testing**

224 **34-56-201. Employee vaccination, recordkeeping, and testing provisions.**

225 (1) (a) Except as provided in Subsection (1)(b), an employer who requires an employee
226 or prospective employee to receive or show proof that the employee or prospective employee
227 has received a vaccine shall exempt the employee or prospective employee from the
228 requirement if the employee or prospective employee submits to the employer:

229 (i) a statement that receiving a vaccine would:

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

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

233 (C) conflict with a sincerely held personal belief of the employee or prospective
234 employee; or

235 (ii) a letter from the employee or prospective employee's primary care provider stating
236 that the employee or prospective employee was previously infected by the infectious agent or
237 disease.

238 (b) An employer may require an employee or prospective employee to receive or show
239 proof that the employee or prospective employee has received a vaccine without providing an
240 exemption described in Subsection (1)(a), if:

241 (i) (A) the employer establishes a nexus between the requirement and the employee's
242 assigned duties and responsibilities; or

243 (B) the employer identifies an external requirement for vaccination that is not imposed
244 by the employer and is related to the employee's duties and responsibilities; and

245 (ii) reassignment of the employee is not practical.

246 (c) (i) An employer may not keep or maintain a record or copy of an employee's proof
247 of vaccination, unless otherwise required:

248 (A) by law; or

249 (B) under an established business practice or industry standard.

250 (ii) Subsection (1)(c)(i) does not prohibit an employer from verbally asking an
251 employee to voluntarily disclose whether the employee is vaccinated.

252 (2) (a) An employer shall pay for all testing of an employee for a disease or condition if
253 the employee is required to receive the testing in relation to or as a condition of the employee's
254 presence at the workplace.

255 (b) An employer may not keep or maintain a record or copy of an employee's test
256 results under Subsection (2)(a), unless otherwise required by law.

257 (3) An employer may not take an adverse action against an employee because of an act
258 the employee makes in accordance with this chapter.

259 Section 6. Section **63D-2-102** is amended to read:

260 **63D-2-102. Definitions.**

261 As used in this chapter:

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

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

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

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

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

269 (3) "Governmental entity" means:

270 (a) an executive branch agency as defined in Section [63A-16-102](#);

271 (b) the legislative branch;

- 272 (c) the judicial branch;
- 273 (d) the State Board of Education;
- 274 (e) the Utah Board of Higher Education;
- 275 (f) an institution of higher education as defined in Section 53B-1-102; and
- 276 (g) a political subdivision of the state:
- 277 (i) as defined in Section 17B-1-102; and
- 278 (ii) including a school district.
- 279 (4) (a) "Governmental website" means a website on the Internet that is operated by or
- 280 on behalf of a governmental entity.
- 281 (b) "Governmental website" includes a court website.
- 282 (5) "Governmental website operator" means a governmental entity or person acting on
- 283 behalf of the governmental entity that:
- 284 (a) operates a governmental website; and
- 285 (b) collects or maintains personally identifiable information from or about a user of
- 286 that website.
- 287 (6) "Personally identifiable information" means information that identifies:
- 288 (a) a user by:
- 289 (i) name;
- 290 (ii) account number;
- 291 (iii) physical address;
- 292 (iv) email address;
- 293 (v) telephone number;
- 294 (vi) Social Security number;
- 295 (vii) credit card information; or
- 296 (viii) bank account information;
- 297 (b) a user as having requested or obtained specific materials or services from a
- 298 governmental website;
- 299 (c) Internet sites visited by a user; or
- 300 (d) any of the contents of a user's data-storage device.
- 301 (7) "User" means a person who accesses a governmental website.
- 302 Section 7. Section **63I-1-226** is amended to read:

303 **63I-1-226. Repeal dates, Title 26.**

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

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

308 (3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July
309 1, 2025.

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

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

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

313 (7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1,
314 2028.

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

316 (9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
317 1, 2025.

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

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

322 (12) Subsection 26-15c-104(3), relating to a limitation on the number of
323 microenterprise home kitchen permits that may be issued, is repealed on July 1, 2022.

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

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

327 (15) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1,
328 2027.

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

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

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

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

334 2024.

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

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

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

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

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

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

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

348 (27) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1,
349 2026.

350 [~~(28) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1,~~
351 ~~2024.~~]

352 Section 8. **Repealer.**

353 This bill repeals:

354 Section 26-68-101, Title.

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