

COVID-19 VACCINE EXEMPTIONS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson S. Burton

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to employee COVID-19 vaccination and testing.

Highlighted Provisions:

This bill:

▶ defines terms;

▶ requires an employer to relieve an employee or a prospective employee of a COVID-19 vaccination mandate if the employee or prospective employee submits a physician's note stating that the employee or prospective employee was previously infected by COVID-19; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-68-201, as enacted by Laws of Utah 2021, Second Special Session, Chapter 9

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

Section 1. Section **26-68-201** is amended to read:



28 **26-68-201. Employee COVID-19 vaccination and testing.**
29 (1) As used in this section:
30 (a) (i) "Adverse action" means an action that results in:
31 (A) the refusal to hire a potential employee; or
32 (B) except as provided in Subsection (1)(a)(ii)(B), the termination of employment,
33 demotion, or reduction of wages of an employee.
34 (ii) "Adverse action" does not include:
35 (A) an employer's reassignment of an employee; or
36 (B) the termination of an employee, if reassignment of the employee is not practical.
37 (b) "COVID-19 vaccine" means a substance that is:
38 (i) (A) approved for use by the United States Food and Drug Administration; or
39 (B) authorized for use by the United States Food and Drug Administration under an
40 emergency use authorization under 21 U.S.C. Sec. 360bbb-3;
41 (ii) injected into or otherwise administered to an individual; and
42 (iii) intended to immunize an individual against COVID-19 as defined in Section
43 [78B-4-517](#).
44 (c) "Employee" means an individual suffered or permitted to work by an employer.
45 (d) (i) Except as provided in Subsection (1)(d)(ii), "employer" means the same as that
46 term is defined in Section [34A-6-103](#).
47 (ii) "Employer" does not include:
48 (A) a person that is subject to a regulation by the Centers for Medicare and Medicaid
49 Services regarding a COVID-19 vaccine, unless the person is the state or a political subdivision
50 of the state that is not an academic medical center; or
51 (B) a federal contractor.
52 (e) "Physician" means an individual licensed to practice under Title 58, Chapter 67,
53 Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
54 ~~(f)~~ (f) "Workplace" means the same as that term is defined in Section [34A-6-103](#).
55 (2) Except as provided in Subsection (6), an employer who requires an employee or
56 prospective employee to receive or show proof that the employee or prospective employee has
57 received a COVID-19 vaccine shall relieve the employee or prospective employee of the
58 requirement if the employee or prospective employee submits to the employer;

59 (a) a statement that receiving a COVID-19 vaccine would:

60 ~~(a)~~ (i) be injurious to the health and well-being of the employee or prospective
61 employee;

62 ~~(b)~~ (ii) conflict with a sincerely held religious belief, practice, or observance of the
63 employee or prospective employee; or

64 ~~(c)~~ (iii) conflict with a sincerely held personal belief of the employee or prospective
65 employee~~[-];~~ or

66 (b) a letter from the employee or prospective employee's physician stating that the
67 employee or prospective employee was previously infected by COVID-19.

68 (3) Except as provided in Subsection (6), an employer shall pay for all COVID-19
69 testing an employee receives in relation to or as a condition of the employee's presence at the
70 workplace.

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

73 (5) (a) An employer may not keep or maintain a record or copy of an employee's proof
74 of vaccination, unless:

75 (i) otherwise required by law;

76 (ii) an established business practice or industry standard requires otherwise; or

77 (iii) the provisions of this section do not apply as described in Subsection (6)(a).

78 (b) Subsection (5)(a) does not prohibit an employer from recording whether an
79 employee is vaccinated.

80 (6) (a) The provisions of this section do not apply to a contract for goods or services
81 entered into before November 5, 2021, unless the contract is between an employer and the
82 employer's employee.

83 (b) An employer may require an employee or prospective employee to receive or show
84 proof that the employee or prospective employee has received a COVID-19 vaccination
85 without providing the relief described in Subsection (2), if the employer:

86 (i) employs fewer than 15 employees; and

87 (ii) establishes a nexus between the requirement and the employee's assigned duties
88 and responsibilities.