

## HB0063S04 compared with HB0063S03

~~{deleted text}~~ shows text that was in HB0063S03 but was deleted in HB0063S04.

inserted text shows text that was not in HB0063S03 but was inserted into HB0063S04.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{Representative Jefferson S. Burton}~~Senator Kirk A. Cullimore proposes the following substitute bill:

### COVID-19 VACCINE EXEMPTIONS

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jefferson S. Burton**

Senate Sponsor: Kirk A. Cullimore

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#### LONG TITLE

##### General Description:

This bill amends provisions related to COVID-19 in the workplace.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires an employer to exempt an employee or a prospective employee from a COVID-19 vaccine requirement if the employee or prospective employee submits a primary care provider's note stating that the employee or prospective employee was previously infected by COVID-19;
- ▶ amends provisions related to recordkeeping;
- ▶ amends scope of provisions;

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- ▶ prohibits an employer from keeping or maintaining a record or copy of an employee's COVID-19 test results, except as otherwise required by law; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

ENACTS:

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

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

RENUMBERS AND AMENDS:

**34-56-101**, (Renumbered from 26-68-201, as enacted by Laws of Utah 2021, Second Special Session, Chapter 9)

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

Section 1. Section **34-56-101**, which is renumbered from Section 26-68-201 is renumbered and amended to read:

### CHAPTER 56. WORKPLACE COVID-19 PROVISIONS

#### Part 1. General Provisions

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

~~[(†)]~~ As used in this ~~[section]~~ chapter:

~~[(a)-(†)]~~ (1) (a) "Adverse action" means:

(i) an action that results in:

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

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

or

(ii) a governmental entity separating an employee from another employee solely because of the ~~{COVID-19}~~COVID-19 vaccination status of the employee.

~~[(††)]~~ (b) "Adverse action" does not include~~[-(A)]~~ an employer's reassignment of an employee~~[-or]~~, if the employee's ~~{COVID-19}~~COVID-19 vaccination status is not the only

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reason for the reassignment.

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

~~[(b)]~~ (2) "COVID-19 vaccine" means a substance that is:

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

or

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

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

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

(3) "COVID-19 vaccination status" means the state of whether an individual has received a COVID-19 vaccine.

~~[(c)]~~ (4) "Employee" means an individual suffered or permitted to work by an employer.

~~[(d)(i)]~~ (5) (a) Except as provided in Subsection ~~[(1)(d)(ii)]~~ (5)(c), "employer" means the same as that term is defined in Section 34A-6-103.

(b) Except as provided in Subsection (5)(c), "employer" includes a federal contractor.

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

~~[(A)]~~ (i) 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]~~ during the period that the regulation is in effect; or

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

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

(6) "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;

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(f) an institution of higher education; and

(g) a political subdivision of the state;

(i) as defined in Section 17B-1-102; and

(ii) including a school district.

(7) "Nurse practitioner" means an individual who is licensed to practice as an advanced practice registered nurse under [Title 58](#), Chapter 31b, Nurse Practice Act.

(8) "Physician" means an individual licensed to practice as a physician or osteopath under [Title 58](#), Chapter 67, Utah Medical Practice Act, or [Title 58](#), Chapter 68, Utah Osteopathic Medical Practice Act.

(9) "Physician assistant" means an individual who is licensed to practice as a physician assistant under [Title 58](#), Chapter 70a, Utah Physician Assistant Act.

(10) "Primary care provider" means a nurse practitioner, physician, or physician assistant.

~~[(e)] (11) "Workplace" means the same as that term is defined in Section 34A-6-103.~~

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

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

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

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

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

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

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

~~[(5)(a) An employer may not keep or maintain a record or copy of an employee's proof~~

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~~of vaccination, unless:]~~

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

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

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

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

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

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

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

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

Section 2. Section **34-56-102** is enacted to read:

### **34-56-102. Scope.**

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

Section 3. Section **34-56-201** is enacted to read:

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

**34-56-201. Employee COVID-19 vaccination, recordkeeping, and testing provisions.**

(1) (a) Except as provided in Subsection (1)(b), an employer who requires an employee or prospective employee to receive or show proof that the employee or prospective employee has received a COVID-19 vaccine shall exempt the employee or prospective employee from the requirement if the employee or prospective employee submits to the employer:

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

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

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

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employee or prospective employee; or

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

(ii) a letter from the employee or prospective employee's primary care provider stating that the employee or prospective employee was previously infected by COVID-19.

(b) An employer may require an employee or prospective employee to receive or show proof that the employee or prospective employee has received a COVID-19 vaccination without providing an exemption described in Subsection (1)(a), if:

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

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

(ii) reassignment of the employee is not practical.

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

(A) otherwise required by law; or

(B) an established business practice or industry standard requires otherwise.

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

(2) (a) An employer shall pay for all COVID-19 testing an employee receives in relation to or as a condition of the employee's presence at the workplace.

(b) An employer may not keep or maintain a record or copy of an employee's COVID-19 test results, unless otherwise required by law.

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