

VACCINE PASSPORT PROHIBITION

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Walt Brooks

Senate Sponsor: Michael S. Kennedy

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:

- ▶ 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.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 **63D-2-102**, as last amended by Laws of Utah 2021, Chapter 345

29 **63I-1-226**, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255,
30 347, and 451

31 ENACTS:

32 **13-7-5**, Utah Code Annotated 1953

33 **26-68-103**, Utah Code Annotated 1953

34 **34A-5-113**, Utah Code Annotated 1953

35 REPEALS:

36 **26-68-101**, as enacted by Laws of Utah 2021, Chapter 182

37 **26-68-102**, as enacted by Laws of Utah 2021, Chapter 182



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

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

41 **13-7-5. Equal right in business establishments, places of public accommodation,**
42 **and enterprises regulated by the state based on immunity status.**

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

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

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

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

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

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

60 **CHAPTER 68. VACCINE AND IMMUNITY PASSPORT RESTRICTIONS ACT**

61 **26-68-103. Prohibition on requiring immunity passports or vaccination --**

62 **Exceptions.**

63 (1) As used in this section:

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

65 [63D-2-102](#).

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

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

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

73 (ii) not a health care facility as defined in Section [26-21-2](#).

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

76 (2) A governmental entity may not:

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

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

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

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

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

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

89 (d) a regulated entity if compliance with Subsection (2) would result in a violation of

90 binding, mandatory regulations or requirements that affect the regulated entity's funding issued
91 by the Centers for Medicare and Medicaid Services or the United States Centers for Disease
92 Control and Prevention;

93 (e) a contract for goods or services entered into before May 3, 2023, if:
94 (i) application of this section would result in a substantial impairment of the contract;
95 and

96 (ii) the contract is not between an employer and the employer's employee;
97 (f) a federal contractor; or
98 (g) a governmental entity vaccination requirement of an employee who, as determined
99 by the governmental entity:

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

103 (ii) is acting in a public health or medical setting that requires the employee to receive
104 vaccinations to perform the employee's assigned duties and responsibilities.

105 (4) A governmental entity described in Subsection (3)(g) shall allow the employee to
106 decline vaccination if the employee submits to the governmental entity a written statement that
107 receiving the vaccine would:

108 (a) be injurious to the health and well-being of the employee;
109 (b) conflict with a sincerely held religious belief, practice, or observance of the
110 employee; or
111 (c) conflict with a sincerely held personal belief of the employee.

112 (5) Nothing in this section prohibits a governmental entity from recommending that an
113 employee receive a vaccine.

114 Section 3. Section 34A-5-113 is enacted to read:

115 **34A-5-113. Prohibition on requiring immunity passports and discrimination**
116 **based on immunity -- Exceptions.**

117 (1) As used in this section:
118 (a) "Employer" means, notwithstanding Section [34A-5-102](#):
119 (i) the state;
120 (ii) a county, city, town, or school district in the state; and

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

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

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

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

131 (ii) not a health care facility as defined in Section [26-21-2](#).

132 (d) "School" means the same as that term is defined in Section [53G-9-301](#).

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

135 (2) It is a discriminatory or prohibited employment practice for an employer, on the
136 basis of an individual's vaccination status or whether the individual has an immunity passport,
137 to:

138 (a) refuse employment to an individual;

139 (b) bar an individual from employment; or

140 (c) discriminate against an individual in compensation or in a term, condition, or
141 privilege of employment.

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

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

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

150 (c) a contract for goods or services entered into before May 3, 2023, if:

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

152 and

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

154 (d) a federal contractor;

155 (e) an employer vaccination requirement of an employee:

156 (i) who, as determined by the employer, has direct exposure to human blood, human
157 fecal matter, or other potentially infectious materials that may expose the employee to hepatitis
158 or tuberculosis;

159 (ii) whose primary duties and responsibilities, as determined by the employer, require
160 the employee:

161 (A) to enter into a regulated entity in Utah, or a facility in a state or territory of the
162 United States outside of Utah, where vaccination is required under state or federal law to
163 access the facility; or

164 (B) to travel to a country that requires vaccination as a condition of entry into the
165 country.

166 (4) An employer described in Subsection (3)(e) shall allow the employee to decline
167 vaccination if the employee submits to the employer a written statement that receiving the
168 vaccine would:

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

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

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

173 (5) Nothing in this section prohibits an employer from recommending that an employee
174 receive a vaccine.

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

176 **63D-2-102. Definitions.**

177 As used in this chapter:

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

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

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

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

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

185 (3) "Governmental entity" means:

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

187 (b) the legislative branch;

188 (c) the judicial branch;

189 (d) the State Board of Education;

190 (e) the Utah Board of Higher Education;

191 (f) an institution of higher education as defined in Section [53B-1-102](#); and

192 (g) a political subdivision of the state:

193 (i) as defined in Section [17B-1-102](#); and

194 (ii) including a school district.

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

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

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

200 (a) operates a governmental website; and

201 (b) collects or maintains personally identifiable information from or about a user of
202 that website.

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

204 (a) a user by:

205 (i) name;

206 (ii) account number;

207 (iii) physical address;

208 (iv) email address;

209 (v) telephone number;

210 (vi) Social Security number;

211 (vii) credit card information; or

212 (viii) bank account information;

213 (b) a user as having requested or obtained specific materials or services from a

214 governmental website;

215 (c) Internet sites visited by a user; or

216 (d) any of the contents of a user's data-storage device.

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

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

219 **63I-1-226. Repeal dates: Title 26 through 26B.**

220 (1) Section **26-1-7.5**, which creates the Utah Health Advisory Council, is repealed July
221 1, 2025.

222 (2) Section **26-1-40** is repealed July 1, 2022.

223 (3) Section **26-1-41** is repealed July 1, 2026.

224 (4) Section **26-1-43** is repealed December 31, 2025.

225 (5) Section **26-7-10** is repealed July 1, 2025.

226 (6) Subsection **26-7-11(5)**, regarding reports to the Legislature, is repealed July 1,
227 2028.

228 (7) Section **26-7-14** is repealed December 31, 2027.

229 (8) Section **26-8a-603** is repealed July 1, 2027.

230 (9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
231 1, 2025.

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

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

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

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

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

241 (15) Section **26-18-28** is repealed June 30, 2027.

242 (16) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1,
243 2027.

244 (17) Subsection **26-18-418(2)**, the language that states "and the Behavioral Health

- 245 Crisis Response Commission created in Section [63C-18-202](#)" is repealed July 1, 2023.
- 246 (18) Section [26-33a-117](#) is repealed December 31, 2023.
- 247 (19) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.
- 248 (20) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1,
- 249 2024.
- 250 (21) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed
- 251 July 1, 2024.
- 252 (22) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.
- 253 (23) Section [26-39-201](#), which creates the Residential Child Care Licensing Advisory
- 254 Committee, is repealed July 1, 2024.
- 255 (24) Section [26-39-405](#), Drinking water quality in child care centers, is repealed July 1,
- 256 2027.
- 257 (25) Section [26-40-104](#), which creates the Utah Children's Health Insurance Program
- 258 Advisory Council, is repealed July 1, 2025.
- 259 (26) Section [26-50-202](#), which creates the Traumatic Brain Injury Advisory
- 260 Committee, is repealed July 1, 2025.
- 261 (27) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and
- 262 Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.
- 263 (28) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1,
- 264 2026.
- 265 [~~(29) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1,~~
- 266 ~~2024.~~]
- 267 [~~(30)~~ (29) Section [26-69-406](#) is repealed July 1, 2025.
- 268 [~~(31)~~ (30) Subsection [26B-1-204](#)(2)(i), related to the Residential Child Care Licensing
- 269 Advisory Committee, is repealed July 1, 2024.
- 270 [~~(32)~~ (31) Subsection [26B-1-204](#)(2)(k), related to the Primary Care Grant Committee,
- 271 is repealed July 1, 2025.
- 272 Section 6. **Repealer.**
- 273 This bill repeals:
- 274 Section [26-68-101](#), **Title.**
- 275 Section [26-68-102](#), **Governmental entities prohibited from requiring a COVID-19**

276 **vaccine.**