

Vaccine Passport/Vaccine Discrimination Prohibition Bill

--- Model Bill ---

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It is the policy of the State of _____ to safeguard medical autonomy, privacy, and liberty as to all persons, which includes protecting the public from coercive COVID-19 vaccination and disclosure of vaccination or immunity status. It is the policy of the State of _____ to prohibit all forms of wrongful discrimination. This section is intended to further these policies.

The State of _____, all of its government entities and business affiliations, and all public and private companies including all public and private schools and universities are prohibited from requiring any person to receive a COVID-19 vaccination or to possess a COVID-19 immunity passport, immunity pass, or other evidence certifying COVID-19 vaccination or immunity status. The persons and entities subject to this section are prohibited from discriminating against any person based on non-receipt of a COVID-19 vaccination or failure to possess a COVID-19 immunity passport, immunity pass, or other evidence certifying vaccination or immunity status.

Definitions.

(a) “Persons” means natural persons, including minor and incapacitated persons.∨

“Minor persons” means persons who have not reached the age of majority. “Incapacitated persons” means persons who have reached the age of majority but are unable to make or communicate decisions concerning their medical autonomy, physical health, safety, or self-care, which includes the decision whether to receive a COVID-19 vaccination.

(b) “Governmental entity” means any unit of state or local government including, but not limited to, the governor, state agencies, counties, cities, towns, political subdivisions, boards, departments, commissions, and special districts and includes all agents, contractors, and employees of any government entity.

(c) “Business affiliation” means any company contracting with or doing business with the State of _____ or a government entity or receiving public funds through any means including contracts, grants, loans, or other disbursements of taxpayer money from the State of _____ or a government entity and includes all agents, contractors, and employees of any company.

(d) “Company” means any corporation, limited liability corporation, nonprofit corporation, partnership, limited partnership, limited liability partnership, business trust, joint venture, domestic or foreign sole proprietorship, other domestic or foreign entity or business association, or any other business organization and includes any subsidiary or parent company of any business organization. “Company” includes private schools, universities, daycare and eldercare facilities, and all other forms of business organizations.

(e) “Discrimination” means a government entity, business affiliation, or any other public or private company subjecting a person to refusal to hire, failure to promote, reassignment with significantly different responsibilities, reduction in pay, significant change in benefits, or employment termination and also means refusal to allow any person to matriculate to, enter, or patronize any establishment or business organization subject to this section on the basis of such person’s vaccination or immunity

status or failure to prove vaccination or immunity status or because the person declined to be vaccinated against COVID-19 for religious, philosophical, medical, or other reason or as a matter of individual medical privacy.

(f) “Direct threat” means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination that an individual poses a direct threat shall be based on an individualized assessment of the individual’s present ability to safely perform the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include: (1) The duration of the risk; (2) The nature and severity of the potential harm; (3) The likelihood that the potential harm will occur; and (4) The imminence of the potential harm.

Applicability.

(a) The State of _____, all of its government entities and business affiliations, and all public and private companies including schools and universities may not require any person to receive a COVID-19 vaccination or to possess a COVID-19 immunity passport, immunity pass, or other evidence certifying vaccination or immunity status and further may not discriminate against any person based on non-receipt of a COVID-19 vaccination or failure to possess a COVID-19 immunity passport, immunity pass, or other evidence certifying vaccination or immunity status. No minor person may be required to receive a COVID-19 vaccination absent legally binding substituted consent by all parents with authority over the child’s medical care or a legally recognized and official guardian of such minor person. No incapacitated person may be required to receive a COVID-19 vaccination absent legally binding substituted consent by a legally recognized and official guardian of such incapacitated person.

(b) The State of _____ and all of its government entities may not enter into a contract or give a loan, grant, or any other disbursement of taxpayer money to a business affiliation that requires a person to receive a COVID-19 vaccination or to possess a COVID-19 immunity passport, immunity pass, or other evidence certifying vaccination or immunity status.

(c) A business affiliation that violates this section materially breaches its contract with the State of _____ or government entity, rendering the contract voidable by the State of _____ or government entity.

(d) A public or private company that violates this section is subject to revocation of its accreditation, licenses, permits, and all other government authority to operate.

Exemption. Professional healthcare facilities treating COVID-19 patients may be exempt from this section where a direct threat exists that cannot be eliminated or reduced by reasonable accommodation.

Construction and severability. The provisions of this section shall be construed liberally to accomplish the policies expressed herein. The provisions of this section are severable. If any provision of this section or the application thereof is held invalid, the invalidity does not affect other provisions or applications of the section, which remain enforceable.

Effective date. This law is effective immediately upon its passage.