



2022 South Dakota Legislature

House Bill 1262

Introduced by: **Representative Howard**

1 **An Act to prohibit discrimination based on a person's vaccination status or**
 2 **possession of an immunity passport and to declare an emergency.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That chapter 20-13 be amended with a NEW SECTION:**

5 Except as provided in sections 2 and 3 of this Act, it is an unfair or discriminatory
 6 practice, subject to enforcement under chapter 20-13, for:

7 (1) A person to refuse, withhold from, or deny, any local or state services, goods,
 8 facilities, advantages, privileges, licensing, educational opportunities, or health
 9 care access, because of an individual's vaccination status or possession, or lack
 10 thereof, of an immunity passport;

11 (2) A person to fail or refuse to hire, to discharge an employee, or to accord adverse
 12 or unequal treatment to any individual, employee, or intern with respect to
 13 application, hiring, training, apprenticeship, tenure, promotion, upgrading,
 14 compensation, layoff, or any term or condition of employment, because of an
 15 individual's vaccination status or possession, or lack thereof, of an immunity
 16 passport; or

17 (3) A person engaged in the provision of public accommodations or public services to
 18 fail or refuse to provide to any individual, access to the use of and benefit from
 19 such services and facilities; or to accord adverse, unlawful, or unequal treatment
 20 to any person with respect to the availability of such services and facilities, based
 21 on an individual's vaccination status or possession, or lack thereof, of an immunity
 22 passport.

23 The provisions of this section do not apply to the immunization requirements of §§
 24 13-28-7.1 and 13-53-47. An employer does not violate this section if the employer
 25 recommends that an employee receive a vaccine.

1 For the purposes of this section, the term, immunity passport, means a document,
2 digital record, or software application indicating that an individual is immune to a disease,
3 either through vaccination or infection and recovery.

4 **Section 2. That chapter 20-13 be amended with a NEW SECTION:**

5 A health care facility, as defined in § 34-12-1.1, is not in violation of section 1 of
6 this Act if it asks an employee to volunteer the employee's vaccination or immunization
7 status for the purpose of determining if the health care facility should implement
8 reasonable accommodation measures to protect the safety and health of employees,
9 patients, visitors, and other persons from communicable diseases. A health care facility
10 may consider an employee to be not vaccinated or not immune if the employee declines
11 to provide the employee's vaccination or immunization status to the health care facility
12 for purposes of determining if reasonable accommodation measures should be
13 implemented.

14
15 **Section 3. That chapter 20-13 be amended with a NEW SECTION:**

16 A health care facility, as defined in § 34-12-1.1, is exempt from section 1 of this
17 Act during any period of time that compliance would result in a violation of regulations or
18 guidance issued by the centers for medicare and medicaid services or the centers for
19 disease control and prevention.

20 **Section 4. That chapter 20-13 be amended with a NEW SECTION:**

21 No person may require that an individual receive any vaccine undergoing safety
22 trials or that is allowed under an emergency use authorization.

23 **Section 5.** Whereas, this Act is necessary for the immediate preservation of the public peace,
24 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force
25 and effect from and after its passage and approval.