



# Two Key Takeaways from Texas' New COVID-19 Vaccine "Passport" Ban for Businesses and Employers

Insights

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On the heels of Florida's highly publicized COVID-19 vaccine passport ban, Texas Governor Greg Abbott announced on Tuesday via Twitter that he too had signed a law banning Texas businesses from requiring vaccine passports under certain circumstances. Passed during the concluding days of this year's legislative session, Senate Bill 968 mirrors an earlier Executive Order by the governor. It includes language banning businesses in the state from requiring proof of the vaccine from their **customers** but does **not** mention employees and employers. This is obviously an important distinction for Texas employers, particularly in view of the well-publicized vaccination requirement that Houston Methodist is enforcing among with workforce. Below are two main takeaways that every employer should know about the Texas vaccine passport ban.

## 1. **Business Cannot Require *Customers* to Provide Proof of Vaccination for Entry or Service**

Texas Bill 968 prohibits Texas businesses from requiring a customer to provide documentation certifying the customer's COVID-19 vaccination or post-transmission recovery status to gain entry or receive services. Business that violate this restriction will be ineligible to receive state grants or state contracts. The new law also allows (but does not require) state agencies that oversee certain business sectors to make compliance with the state law a condition of granting licenses or permits. Unlike Florida's new law, the Texas law does not provide for a monetary fine.

The Texas law does not limit a company's right to continue offering incentives to the vaccinated public, so long as customers voluntarily provide their health information. The law further bans state entities from issuing documentation certifying COVID-19 vaccination to third parties for reasons other than health care.

## 2. **Business *Can* – and Should – Continue to Implement COVID-19 Safety Protocols in Accordance with Federal and State Law**

The law specifically states that it may not be construed to restrict a business from implementing COVID-19 screening and infection control protocols in accordance with state and federal law to protect the public health. Thus, employers should continue to look to the EEOC, CDC, and other state agencies for guidance regarding employee vaccination status.

The EEOC expressly permits you to request vaccination status from your employees. The CDC announced last month that only people who are fully vaccinated may follow relaxed COVID-19 protocols. Despite its earlier guidance stating that employers should not distinguish between

vaccinated and unvaccinated employees, OSHA has acknowledged, without elaborating, the CDC's subsequent guidance and is referring employers to it.

- For a summary of the CDC's guidance on scrapping mask mandates for fully vaccinated workers and a seven-step blueprint for employers to overcome risks and hurdles, [click here](#).
- For a summary of the three options that employers have in light of OSHA's subsequent unmasking announcement, [click here](#).

## **Conclusion**

We will continue to monitor developments related to the COVID-19 vaccines and related workplace questions that arise. Make sure you are subscribed to [Fisher Phillips' Insight system](#) to get the most up-to-date information. If you have questions about how to ensure that your vaccine policies comply with workplace and other applicable laws, visit our [Vaccine Resource Center for Employers](#) or contact your Fisher Phillips attorney or any of the authors of this Insight.

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