

# “SAFE ACCESS O’AHU”: WHAT HONOLULU BUSINESSES NEED TO KNOW ABOUT VACCINE PASSPORTS FOR WORKERS AND PATRONS

Insights  
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Honolulu City and County Mayor Rich Blangiardi has announced “[Safe Access O’ahu](#),” a strategy developed in concert with local business leaders to “aggressively counteract” a nascent surge of COVID-19 while avoiding further shutdowns. Starting September 13, most Honolulu-area entertainment, recreational, and food service establishments must require that — *prior to entry* — workers and patrons provide proof of full vaccination (or a negative test result). Moreover, consistent with Governor David Ige’s previous [Proclamations](#), even once vaccination status is verified, masks must be worn at all times, unless actively eating or drinking. Covered establishments must also satisfy an array of technical requirements, including submitting an attestation of compliance, developing a written protocol for implementation, posting clear signage, and limiting the sale and consumption of liquor to certain hours. To fully comply ahead of the deadline, covered establishments must act now to develop and implement a plan. Here is what you need to know to ensure your business complies with these new obligations.

## Most Honolulu Entertainment, Recreational, and Food Service Establishments Must Comply

You are a covered establishment and must comply if:

## Service Focus

### Workplace Safety

- You are an entertainment establishment, including (by way of example):
  - Entertainment Centers
  - Movie theaters
  - Arcades
  - Bowling Alleys
  - Pool halls
  - Museums
  - Zoos/Aquariums
- You are a recreational establishment, with indoor space(s), including (by way of example):
  - Fitness Facilities
  - Gyms
  - Dance Studios
  - Pools
  - Commercial Boating
- You offer food or drink for on premises consumption, including (by way of example):
  - Restaurants
  - Caterers
  - Bars
  - Grocery Stores and Food Courts (if seating provided)

You are not a covered entity if *exclusively* offering food or drink for delivery or take-out for off-premises consumption.

## **Covered Establishments Must Ensure Most Individuals Entering Premises Are Vaccinated (or Tested Negative)**

Effective September 13, covered establishments must verify that, prior to entry, most individuals provide proof of full vaccination (or a negative test result) unless they are under the age of 12.

### ***Workers***

- Workers (including employees, contractors, interns, and volunteers) must provide proof of full vaccination.
- Alternatively, unvaccinated workers must submit a negative test result for a FDA approved molecular or antigen test on a weekly basis (seven days prior to entry).

### ***Patrons***

- Patrons must provide proof of full vaccination *and* identification that bears the same name as the proof.
- You must confirm that the patron requesting entry is the same person reflected on the proof of vaccination. Therefore, the patron's identification must contain either: (1) name and a photo, or (2) name and date of birth. This may include a government ID, a passport, a driver's license, or a work/school ID.
- Alternatively, unvaccinated patrons must submit a negative test result for a FDA approved molecular or antigen test taken within 48 hours of entry.

### ***Vendors***

- Vendors are *not* required to provide proof of full vaccination (or negative test result) if they are on premises for less than 15 minutes. However, they must wear a face mask.

## **What is Acceptable Proof of Full Vaccination?**

Covered entities may accept the following as proof of vaccination:

- State-approved vaccination card (either a hard copy or digital copy/photo), *or*
- State-approved digital/smart device application confirming vaccination status.

The proof must demonstrate full vaccination by evidencing either:

- Two weeks have passed since the second dose in an FDA-approved or authorized, two-dose COVID-19 vaccination series, *or*
- Two weeks have passed since a single dose of an FDA-approved or authorized single-dose COVID-19 vaccination.

### **Do We Need to Provide Any Reasonable Accommodations?**

All covered establishments must comply with federal or state laws governing employment and public accommodations, which prohibit discrimination on the basis of religion or disability. You should engage in an interactive process with each worker or patron to determine if, and what, reasonable accommodation can be made, if any, should they be unable to provide proof of vaccination (or a negative test result).

### **You Must Also Comply with All Technical Requirements**

By September 13, covered establishments must comply with all technical requirements:

#### ***Attestation***

- The owner (or authorized agent) must attest that they will fully comply with all of the above requirements by completing a form, available here.

#### ***Written Policy***

- You must have a written policy for implementing and enforcing the above requirements, which must be available for inspection.
- At a minimum, your written policy must detail how you will verify proof of vaccination or of a negative test result.

### ***Signage***

- You must post an 8.5 × 11-inch (minimum) sign in a conspicuous place, viewable by workers and patrons, *prior to entry*, alerting them to these requirements.
- The City and County of Honolulu has provided a sample sign, [available here](#).

### ***Sale/Consumption of Liquor***

- Establishments offering liquor for on premises consumption must cease the sale, service, and prohibit consumption of liquor, and not otherwise have liquor open and readily consumable, at or before 10:00 PM each day.

### **Are There Penalties for Noncompliance?**

Covered establishments who are noncompliant may be subject to a fine of not more than \$5,000 or one year in prison, or both.

### **What's Next?**

Mayor Blangiardi signaled that, unless the surge of COVID-19 abates within the next 60 days, he may require that covered establishments bar entry entirely to anyone who is unvaccinated (even if they present a negative test result).

We'll monitor the situation and provide updates as developments occur, so 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 the author of this Insight.