

Senate Bill 872

Sponsored by Senators THATCHER, BOQUIST, ROBINSON; Senator HANSELL, Representatives BOSHART DAVIS, CATE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits public bodies and private entities from requiring person to receive COVID-19 vaccination or to possess COVID-19 immunity passport, immunity pass or other evidence certifying COVID-19 vaccination or immunity status.

Prohibits public bodies and private entities from discriminating against person based on non-receipt of COVID-19 vaccination or failure to possess COVID-19 immunity passport, immunity pass or other evidence certifying vaccination or immunity status.

Prohibits public bodies and private entities from interfering with certain rights on account of risks presented by COVID-19 pandemic.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to COVID-19; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The Legislative Assembly finds and declares:

(1) **It is the policy of the State of Oregon always to protect human rights and constitutional liberties including during a public health crisis or other state of emergency.**

(2) **It is the policy of the State of Oregon 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. All persons may choose to receive vaccinations or not and to wear a face covering or mask or not as a matter of medical privacy and liberty.**

(3) **It is the policy of the State of Oregon to protect individual liberties including freedom of trade and commerce, freedom of religion and the rights of free speech, assembly, petition and protest from unnecessary restrictions.**

(4) **It is the policy of the State of Oregon to safeguard public health and liberty in a reasonable and balanced manner and to curtail individual liberties only to the extent necessary to protect the public health and only where a direct threat can be shown to justify such curtailment. Any curtailment of liberty to further public health must be medically necessary and furthered by the least intrusive means possible.**

(5) **It is the policy of the State of Oregon to prohibit all forms of wrongful discrimination.**

(6) **Numerous individual liberty rights secured by the United States Constitution and the Oregon Constitution have been unnecessarily and oppressively infringed by certain COVID-19 restrictions and emergency measures.**

(7) **The risks to individual liberty, freedom of speech and protest, religious freedom, commerce, individual autonomy and self-actualization outweigh the risks presented by the COVID-19 pandemic when individuals are unnecessarily and oppressively restricted from exercising protected constitutional rights or any other liberty interest.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **SECTION 2.** As used in sections 1 to 4 of this 2021 Act:

2 (1) **“Business affiliation”** means a company, including the agents, contractors and em-
3 ployees of the company, that contracts with or does business with the State of Oregon or a
4 public body or receives public funds through any means including contracts, grants, loans
5 or other disbursements of taxpayer money from a public body.

6 (2)(a) **“Company”** means a corporation, limited liability corporation, nonprofit corpo-
7 ration, partnership, limited partnership, limited liability partnership, business trust, joint
8 venture, domestic or foreign sole proprietorship, other domestic or foreign entity or business
9 association or any other business organization and includes any subsidiary or parent com-
10 pany of any business organization.

11 (b) **“Company”** includes a private school or private university.

12 (3) **“Direct threat”** means a significant risk of substantial harm to the health or safety
13 of the individual or others that cannot be eliminated or reduced by reasonable accommo-
14 dation. The determination that an individual poses a direct threat must be based on an in-
15 dividualized assessment of the individual’s present ability to safely perform the essential
16 functions of the job. This assessment must be based on a reasonable medical judgment that
17 relies on the most current medical knowledge and on the best available objective evidence.
18 In determining whether an individual would pose a direct threat, the factors to be considered
19 include:

20 (a) The duration of the risk;

21 (b) The nature and severity of the potential harm;

22 (c) The likelihood that the potential harm will occur; and

23 (d) The imminence of the potential harm.

24 (4) **“Discrimination”** means the following actions based on a person’s COVID-19
25 vaccination or immunity status or refusal to disclose vaccination or immunity status, failure
26 or refusal to wear a face covering or mask or exercise of the person’s right to engage in
27 commerce, practice religion or engage in free speech, assembly, petition, protest or any
28 other right:

29 (a) Refusal to hire, failure to promote, reassignment with significantly different respon-
30 sibilities, reduction in pay, significant change in benefits or employment termination;

31 (b) Refusal to allow a person to enter, matriculate to or patronize any establishment;

32 (c) Refusal to admit a person into a school, childcare facility, sport activity or any other
33 extracurricular activity;

34 (d) Refusal to allow a person to use any form of public or mass transit including air, land
35 or sea travel; and

36 (e) Any other action that deprives a person of the necessities of life or government ser-
37 vices including, but not limited to, police, fire and mail services.

38 (5) **“Incapacitated person”** means a person who has reached the age of majority but is
39 unable to make or communicate decisions concerning the person’s medical autonomy, phys-
40 ical health, safety or self-care, including the decision whether to receive a COVID-19
41 vaccination.

42 (6) **“Minor person”** means a person who has not reached the age of majority.

43 (7) **“Person”** means a natural person, including a minor person and an incapacitated
44 person.

45 (8) **“Public body”** has the meaning given that term in ORS 174.109, and includes all

1 agents, contractors, and employees of a public body.

2 **SECTION 3.** (1) A public body, a business affiliation and a company are prohibited from
3 requiring any person to receive a COVID-19 vaccination or to possess a COVID-19 immunity
4 passport, immunity pass or other evidence certifying COVID-19 vaccination or immunity
5 status.

6 (2) A public body, a business affiliation and a company may not discriminate against any
7 person based on non-receipt of a COVID-19 vaccination or failure to possess a COVID-19
8 immunity passport, immunity pass or other evidence certifying vaccination or immunity
9 status, whether the person's medical prerogative is based on religion, personal philosophy,
10 a medical exemption, privacy or any other reason.

11 (3)(a) Notwithstanding ORS 109.640, a minor person may not be required to receive a
12 COVID-19 vaccination absent legally binding substituted consent by all parents with author-
13 ity over the child's medical care or a legally recognized and official guardian of such minor
14 person.

15 (b) An incapacitated person may not be required to receive a COVID-19 vaccination ab-
16 sent legally binding substituted consent by a legally recognized and official guardian of such
17 incapacitated person.

18 (4) A public body may not enter into a contract or give a loan, grant or any other dis-
19 bursement of taxpayer money to a business affiliation that requires a person to receive a
20 COVID-19 vaccination or to possess a COVID-19 immunity passport, immunity pass, or other
21 evidence certifying vaccination or immunity status.

22 (5) A business affiliation that violates this section materially breaches its contract with
23 the public body with which it is affiliated, rendering the contract voidable by the public body.

24 (6) A company that violates this section is subject to revocation of its accreditation, li-
25 censes, permits and all other government authority to operate.

26 **SECTION 4.** (1) A public body, business affiliation and company may not:

27 (a) Interfere with individual rights to practice religion, engage in commerce or exercise
28 the right of expression through speech, assembly, petition or protest on account of risks
29 presented by the COVID-19 pandemic.

30 (b) Discriminate against any person for exercising the rights described in paragraph (a)
31 of this subsection or any other right on account of risks presented by the COVID-19
32 pandemic.

33 (2) A public body may not enter into a contract or give a loan, grant or any other dis-
34 bursement of taxpayer money to a business affiliation that restricts any person from exer-
35 cising the rights described in subsection (1) of this section or any other liberty right secured
36 by the United States Constitution or Oregon Constitution on account of risks presented by
37 the COVID-19 pandemic.

38 (3) A business affiliation that violates this section materially breaches its contract with
39 the public body with which it is affiliated, rendering the contract voidable by the State of
40 Oregon or government entity.

41 (4) A company that violates this section is subject to revocation of its accreditation, li-
42 censes, permits and all other government authority to operate.

43 **SECTION 5.** Sections 1 to 4 of this 2021 Act do not:

44 (1) Alter valid restrictions of activities that pose a direct threat to others where the di-
45 rect threat cannot be eliminated or reduced by reasonable accommodation.

1 **(2) Alter common law or statutory penalties and remedies for negligent or intentional**
2 **transmission of a communicable disease to another person.**

3 **SECTION 6.** **This 2021 Act being necessary for the immediate preservation of the public**
4 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
5 **on its passage.**

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