

PUBLICATION

Texas Prohibits Businesses and Employers from Requiring Customers to Show Vaccine Passports

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On June 7, 2021, Texas Governor Greg Abbott signed into law Senate Bill 968 which prohibits a business from requiring a customer to provide any documentation certifying the customer's COVID-19 vaccination. "Texas is open 100 percent, and we want to make sure you have the freedom to go where you want without limits," Governor Abbott said before signing the law in a video he posted Monday on Twitter. He continued by stating that "Vaccine passports are now prohibited in the Lone Star State."

Senate Bill 968 prohibits a business from requiring a customer to provide a vaccine passport in order to gain entry to, to gain access to, or to receive service from the business. A business that fails to comply is not eligible to receive a grant or enter into a contract payable with state funds. The new law does not provide for a monetary fine imposed on the business. The new law allows (but does not require) state agencies that oversee businesses to make compliance with the new law a condition for a license, permit, or other state authorization necessary for conducting business within the state of Texas.

Yet, the new law does not restrict a business from implementing COVID-19 screening and infection control protocols in accordance with state and federal law to protect 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 an employer to request vaccination status from its employees. On May 28, 2021, the EEOC released new guidance on COVID-19 vaccinations in the workplace. In a prior [Baker alert](#), we discussed in detail the implementations of the EEOC updated guidance on the workforce including mandatory vaccinations, requiring proof of vaccination, confidentiality, and offering incentives to employees to get vaccinated.

Takeaway

While businesses cannot require customers to show proof of vaccine, they are not prohibited from offering an incentive to customers who volunteer this information. As this new law is in its infancy stage of implementation, we will continue to monitor to see if Governor Abbott places any restrictions on offering incentives. At this time, businesses and employers should notify their employees that they can no longer request this information from customers, if they were doing so prior to the new law going into effect. Businesses should also revisit any policy it may have had in place requiring customers to show proof of vaccination upon entry.

If you have any questions on this new law, please contact the author or any member of Baker Donelson's [Labor & Employment Practice Group](#) for more information or assistance.