

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 412

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO IMMUNIZATIONS; AMENDING SECTION 67-5902, IDAHO CODE, TO DEFINE
2 TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 59, TITLE 67,
3 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5909B, IDAHO CODE, TO
4 PROHIBIT CERTAIN ACTS OF DISCRIMINATION ON THE BASIS OF IMMUNIZATION
5 STATUS OR THE POSSESSION OF AN IMMUNITY PASSPORT AND TO PROVIDE FOR CER-
6 TAIN EXCEPTIONS; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 67-5902, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 67-5902. DEFINITIONS. In this chapter, unless the context otherwise
12 requires:

13 (1) "Commission" means the commission on human rights created by this
14 chapter~~.~~.

15 (2) "Commissioner" means a member of the commission~~.~~.

16 (3) "Discriminatory practice" means a practice designated as discrimi-
17 natory under the terms of this chapter~~.~~.

18 (4) "Immunity passport" means a document, digital record, or software
19 application indicating that a person is immune to a disease as a result of a
20 vaccine or infection and recovery.

21 (5) "Immunization status" means an indication of whether a person has
22 received one (1) or more doses of a vaccine.

23 (6) "National origin" includes the national origin of an ancestor~~.~~.

24 (~~5~~7) "Person" includes an individual, association, corporation, joint
25 apprenticeship committee, joint-stock company, labor union, legal repre-
26 sentative, mutual company, partnership, any other legal or commercial en-
27 tity, the state, or any governmental entity or agency~~.~~.

28 (~~6~~8) "Employer" means a person, wherever situated, who hires five (5)
29 or more employees for each working day in each of twenty (20) or more calen-
30 dar weeks in the current or preceding calendar year whose services are to be
31 partially or wholly performed in the state of Idaho, except for domestic ser-
32 vants hired to work in and about the person's household. The term also means:

33 (a) A person who as contractor or subcontractor is furnishing material
34 or performing work ~~for~~ in the state;

35 (b) Any agency of or any governmental entity within the state; and

36 (c) Any agent of such employer.

37 (~~7~~9) "Employment agency" means a person regularly undertaking with or
38 without compensation to procure employees for an employer or to procure for
39 employees opportunities to work for an employer and includes an agent of such
40 a person~~.~~.

41 (~~8~~10) "Labor organization" includes:

1 (a) An organization of any kind, an agency or employee representation
2 committee, group, association, or plan in which employees participate
3 and which exists for the purpose, in whole or in part, of dealing with
4 employers concerning grievance, labor disputes, wages, rates of pay,
5 hours, or other terms or conditions of employment;

6 (b) A conference, general committee, joint or system board, or joint
7 council which is subordinate to a national or international labor or-
8 ganization; or

9 (c) An agent of a labor organization.

10 (911) "Place of public accommodation" means a business, accommodation,
11 refreshment, entertainment, recreation, or transportation facility of any
12 kind, whether licensed or not, whose goods, services, facilities, privi-
13 leges, advantages or accommodations are extended, offered, sold, or other-
14 wise made available to the public~~.~~.

15 (102) "Educational institution" means a public or private institution
16 and includes an academy, college, elementary or secondary school, extension
17 course, kindergarten, nursery, school system, or university and a business,
18 nursing, professional, secretarial, technical, or vocational school and in-
19 cludes an agent of an educational institution~~.~~.

20 (113) "Real property" includes buildings, structures, real estate,
21 lands, tenements, leaseholds, interests in real estate cooperatives, con-
22 dominiums, and hereditaments, corporeal and incorporeal or any interest
23 therein~~.~~.

24 (124) "Real estate transaction" includes the sale, exchange, rental or
25 lease of real property~~.~~.

26 (135) "Housing accommodation" includes any improved or unimproved real
27 property, or part thereof, ~~which is used or occupied, or~~ as the home or resi-
28 dence of one (1) or more individuals~~.~~.

29 (146) "Real estate broker or salesman" means a person, whether licensed
30 or not, who, for or with the expectation of receiving a consideration, lists,
31 sells, purchases, exchanges, rents, or leases real property, or who negoti-
32 ates or attempts to negotiate any of these activities, or who holds himself
33 out as engaged in these activities, or who negotiates or attempts to negoti-
34 ate a loan secured or to be secured by mortgage or other encumbrance upon real
35 property, or who is engaged in the business of listing real property in a pub-
36 lication; or a person employed by or acting on behalf of any of these~~.~~.

37 (157) "Disability" means a physical or mental condition of a person,
38 whether congenital or acquired, which constitutes a substantial limitation
39 to that person and is demonstrable by medically accepted clinical or lab-
40 oratory diagnostic techniques. A person with a disability is one who (a)
41 has such a disability, or (b) has a record of such a disability, or (c) is
42 regarded as having such a disability~~.~~.

43 (168) "Reasonable accommodation" means an adjustment which does not
44 (a) unduly disrupt or interfere with the employer's normal operations, (b)
45 threaten the health or safety of the person with the disability or others,
46 (c) contradict a business necessity of the employer, or (d) impose undue
47 hardship on the employer based on the size of the employer's business, the
48 type of business, the financial resources, and the estimated cost and extent
49 of the adjustment~~.~~.

1 (179) "Readily achievable" means easily accomplishable and able to be
 2 carried out without much difficulty or expense. In determining whether an
 3 action is readily achievable, factors to be considered include (a) the na-
 4 ture and cost of the action needed under this chapter, (b) the overall fi-
 5 nancial resources of the facility or facilities involved in the action, the
 6 number of persons employed at the facility, the effect on expenses and re-
 7 sources, or the impact otherwise of the action upon the operation of the fa-
 8 cility, (c) the overall financial resources of the covered entity, the over-
 9 all size of the business of a covered entity with respect to the number of its
 10 employees, the number, type, and location of its facilities, and (d) the type
 11 of operation or operations of the covered entity, including the composition,
 12 structure, and functions of the workforce of the entity, the geographic sep-
 13 arateness, administrative or fiscal relationship of the facility or facili-
 14 ties in question to the covered entity.

15 SECTION 2. That Chapter 59, Title 67, Idaho Code, be, and the same is
 16 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 17 ignated as Section 67-5909B, Idaho Code, and to read as follows:

18 67-5909B. ACTS PROHIBITED -- DISCRIMINATION BASED ON IMMUNIZATION
 19 STATUS OR POSSESSION OF IMMUNITY PASSPORT. (1) Except as otherwise provided
 20 in this section, it is an unlawful discriminatory practice for:

21 (a) A person to refuse, withhold from, or deny a person any local or
 22 state government services, goods, facilities, advantages, privileges,
 23 licensing, educational opportunities, health care access, contract
 24 work, or employment opportunities based on the person's immunization
 25 status or whether the person has an immunity passport;

26 (b) An employer to refuse employment to a person, to bar a person from
 27 employment, or to discriminate against a person as to compensation or as
 28 to a term, condition, or privilege of employment based on the person's
 29 immunization status or whether the person has an immunity passport; or

30 (c) A public accommodation to exclude, limit, segregate, refuse to
 31 serve, or otherwise discriminate against a person based on the person's
 32 immunization status or whether the person has an immunity passport.

33 (2) This section does not apply to immunization requirements for:

34 (a) Schools, as provided in chapter 48, title 39, Idaho Code;

35 (b) Day care facilities, as provided in chapter 11, title 39, Idaho
 36 Code; and

37 (c) Licensed nursing homes, long-term care facilities, or assisted
 38 living facilities during any period of time that compliance with
 39 subsection (1) of this section would result in a violation of the reg-
 40 ulations or guidance issued by the centers for medicare and medicaid
 41 services.

42 (3) (a) A person does not unlawfully discriminate under this section if
 43 the person recommends that an employee or contractor receive a vaccina-
 44 tion.

45 (b) A health care facility, as defined in section 48-303, Idaho Code,
 46 except as otherwise provided in subsection (2) (c) of this section, does
 47 not unlawfully discriminate under this section if both of the following
 48 requirements are met:

1 (i) The facility asks an employee or contractor to volunteer
2 the person's immunization status for the purpose of determin-
3 ing whether the health care facility should implement reasonable
4 accommodation measures to protect the safety and health of em-
5 ployees, contractors, patients, visitors, and other persons from
6 communicable diseases. A health care facility may consider an
7 employee or contractor to be unvaccinated or nonimmune if the
8 employee or contractor declines to provide the person's immu-
9 nization status to the health care facility for the purpose of
10 determining whether reasonable accommodation measures should be
11 implemented; and

12 (ii) The facility implements reasonable accommodation measures
13 for employees, contractors, patients, visitors, and other per-
14 sons who are not vaccinated or not immune to protect the safety and
15 health of employees, contractors, patients, visitors, and other
16 persons from communicable diseases.

17 (4) An individual may not be required to receive an inoculation by any
18 vaccine whose use is allowed only under an emergency use authorization or any
19 vaccine undergoing safety trials.

20 SECTION 3. SEVERABILITY. The provisions of this act are hereby declared
21 to be severable and if any provision of this act or the application of such
22 provision to any person or circumstance is declared invalid for any reason,
23 such declaration shall not affect the validity of the remaining portions of
24 this act.

25 SECTION 4. An emergency existing therefor, which emergency is hereby
26 declared to exist, this act shall be in full force and effect on and after its
27 passage and approval.