



## Interpreting the New Texas Vaccine Passport Law

In this past legislative session, Governor Abbott signed into law Senate Bill 968, which, among other pandemic related measures, enacted the “Vaccine Passport” law. This provision is fairly short, and does three things:

1. Prohibits any governmental entity from issuing a “vaccine passport”;
2. Prohibits any business from requiring a “customer to provide any documentation certifying the customer’s COVID-19 vaccination or post-transmission recovery” to gain access to or receive services from the business;
3. Any business in violation of this section will not receive a grant or enter state contracts.

The new law provides 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 public health. For example, new signs have been appearing on retail establishment doors asking for any non-vaccinated customers to wear a mask. This request is permissible under the new law.

The first test of this new law will likely be in the cruise industry. The cruise industry is faced with a hard decision about whether they can fill a ship with passengers consistent with federal regulations about cruise operations (i.e. asking for vaccination records and performing rapid COVID tests) in light of similar state laws around the country. It appears the cruise industry is prepared to move forward with asking passengers for vaccine records based on an argument that the industry is regulated by federal law.

The Texas Vaccination Passport law only applies to business inquiries to “customers.” It does not prohibit an employer from asking its employees for vaccination status should they choose to do so. Employers are not required to request this information from employees, but may decide to in order to enforce the remaining mask or social distancing requirements that are still recommended by the Centers for Disease Control for unvaccinated workers.

Some businesses have been asking their vendors or contractors to allow only vaccinated workers onto their job sites or properties. In the construction industry, an owner may ask a general contractor to allow only their vaccinated workers and subcontractors onto the job site. The Vaccination Passport law, or other state or federal law, does not prohibit these requests.

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