

SENATE BILL NO. 2274

Introduced by

Senators Clemens, Beard, Larsen, Magrum

Representative Vetter

1 A BILL for an Act to create and enact chapter 14-02.7 of the North Dakota Century Code,
2 relating to discrimination based on vaccination status or possession of an immunity passport.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Chapter 14-02.7 of the North Dakota Century Code is created and enacted as
5 follows:

6 **14-02.7-01. Definitions.**

7 As used in this chapter:

- 8 1. "Department" means the division of human rights within the department of labor and
9 human rights.
- 10 2. "Employee" means an individual who performs services for an employer, who employs
11 one or more individuals, for compensation, whether in the form of wages, salaries,
12 commission, or otherwise. The term does not include an individual elected to public
13 office in the state or political subdivision by the qualified voters thereof, or an individual
14 chosen by the officer to be on the officer's political staff, or an appointee on the
15 policymaking level or an immediate adviser with respect to the exercise of the
16 constitutional or legal powers of the office. However, the term does include an
17 individual subject to the civil service or merit system or civil service laws of the state
18 government, governmental agency, or a political subdivision.
- 19 3. "Employer" means a person within the state which employs one or more employees
20 for more than one quarter of the year and a person wherever situated which employs
21 one or more employees whose services are to be partially or wholly performed in the
22 state.

- 1 4. "Immunity passport" means a document, digital record, or software application
2 indicating an individual is immune to a disease, either through vaccination or through
3 infection and recovery.
- 4 5. "Public accommodation" means every place, establishment, or facility of whatever
5 kind, nature, or class which caters or offers services, facilities, or goods to the general
6 public for a fee, charge, or gratuity. The term does not include a bona fide private club
7 or other place, establishment, or facility that is by its nature distinctly private; provided,
8 however, the distinctly private place, establishment, or facility is a "public
9 accommodation" during the period it caters or offers services, facilities, or goods to the
10 general public for a fee, charge, or gratuity.
- 11 6. "Reasonable accommodations" means accommodations by an employer which do not:
12 a. Unduly disrupt or interfere with the employer's normal operations;
13 b. Threaten the health or safety of the individual seeking reasonable
14 accommodations or others;
15 c. Contradict a business necessity of the employer; or
16 d. Impose undue hardship on the employer, based on the size of the employer's
17 business, the type of business, the financial resources of the employer, and the
18 estimated cost and extent of the accommodations.
- 19 7. "Vaccination status" means an indication of whether an individual has received one or
20 more doses of a vaccine.

21 **14-02.7-02. Discrimination based on vaccination status or possession of immunity**
22 **passport prohibited.**

23 Except as otherwise provided in section 14-02.7-03, it is an unlawful discriminatory practice
24 for:

- 25 1. A person to refuse, withhold from, or deny to an individual any local or state services,
26 goods, facilities, advantages, privileges, licensing, educational opportunities, health
27 care access, or employment opportunities based on the individual's vaccination status
28 or whether the individual has an immunity passport.
- 29 2. An employer to refuse employment to an individual, to bar an individual from
30 employment, or to discriminate against an individual in compensation or in a term,

1 condition, or privilege of employment based on the individual's vaccination status or
2 whether the individual has an immunity passport.

3 3. A public accommodation to exclude, limit, segregate, refuse to serve, or otherwise
4 discriminate against an individual based on the individual's vaccination status or
5 whether the individual has an immunity passport.

6 **14-02.7-03. Exceptions.**

7 1. Section 14-02.7-02 does not apply to a vaccination requirement provided under
8 section 15.1-23-02 or 23-07-17.1.

9 2. It is not a violation of section 14-02.7-02 for a:

10 a. Person to recommend an employee receive a vaccine.

11 b. Health care facility to ask an employee to volunteer the employee's vaccination or
12 immunization status if the inquiry is for the purpose of determining whether the
13 health care facility should implement reasonable accommodations to protect the
14 safety and health of employees, patients, visitors, and other individuals from
15 communicable diseases. The health care facility may implement reasonable
16 accommodations for employees, patients, visitors, and other individuals who are
17 not vaccinated or not immune to protect the safety and health of employees,
18 patients, visitors, and other individuals from communicable diseases. The health
19 care facility may consider an employee to be nonvaccinated or nonimmune if the
20 employee declines to provide the employee's vaccination or immunization status
21 to the health care facility for purposes of determining whether reasonable
22 accommodations should be implemented.

23 3. A licensed nursing home, long-term care facility, basic care facility, or assisted living
24 facility is exempt from compliance with section 14-02.7-02 during any period of time for
25 which compliance would result in a violation of regulations or guidance issued by the
26 centers for Medicare and Medicaid services or the centers for disease control and
27 prevention.

28 **14-02.7-04. Investigations - Retaliation prohibited - Actions - Relief - Records.**

29 The department shall receive and investigate complaints alleging violations of this chapter
30 in the same manner as provided under section 14-02.4-22. Additionally, sections 14-02.4-18,

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- 1 14-02.4-19, 14-02.4-20, and 14-02.4-21, regarding retaliation, civil actions, relief, and exempt
- 2 records apply to this chapter.