To protect individual liberty, ensure privacy, and prohibit discrimination with respect to the vaccination status of individuals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES
JUNE 14, 2021

Mrs. HARSHBARGER introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, Transportation and Infrastructure, Education and Labor, Foreign Affairs, Oversight and Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL
To protect individual liberty, ensure privacy, and prohibit discrimination with respect to the vaccination status of individuals, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3
4 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
5 (a) Short Title.—This Act may be cited as the
6 “No Vaccine Passports for Americans Act”.
7 (b) Table of Contents.—The table of contents for
8 this Act is as follows:
Congress finds as follows:

(1) In December 2019, reports began circulating that hospitals in Wuhan, China were seeing cases of a pneumonia-like respiratory illness of unknown origins.
(2) On December 31, 2019, an automated translation of a Chinese media report about a novel respiratory outbreak was posted to ProMED, one of the largest public emerging disease and outbreak reporting systems used to promote communication among infectious disease specialists, including scientists, physicians, veterinarians, epidemiologists, and public health professionals.

(3) The ProMED posting prompted the World Health Organization (WHO) to instruct its China Country Office to request verification of the outbreak from the communist government of the People’s Republic of China.

(4) In response to the WHO-prompted inquiry, the Wuhan Municipal Health Commission issued its first public statement on the outbreak, saying it had identified 27 cases.

(5) On January 3, 2020, in what is clear conduct by the Chinese government to cover up the origins and dangers posed by the outbreak, Dr. Li Wenliang, a physician at Wuhan Central Hospital, was reprimanded by local police in the Public Security Bureau for spreading allegedly “false statements” about the outbreak online.
(6) On January 3, 2020, the Chinese Center for Disease Control and Prevention (China CDC) Director-General Gao Fu told the United States Centers for Disease Control and Prevention (United States CDC) Director Robert Redfield about a pneumonia outbreak in Wuhan, Hubei Province, China.

(7) On January 6, 2020, the United States Department of Health and Human Services (HHS) Secretary Alex M. Azar II and United States CDC Director Redfield offered to send United States CDC experts to China, and United States CDC issued a “Watch Level 1 Alert” for Wuhan, meaning that the CDC recognized a heightened risk for travelers, cautioning travelers to use health precautions when traveling to areas in China.

(8) On January 11, 2020, a team led by Professor Yong-zhen Zhang of Fudan University in Shanghai posted the genetic sequence of the novel virus on an open-access platform, sharing it with the world.

(9) On January 14, 2020, the WHO tweeted, “Preliminary investigations conducted by the Chinese authorities have found no clear evidence of human-to-human transmission of the novel coronavirus (2019–nCoV) identified in Wuhan,
China''. The WHO’s assertion has been proven false and completely contrary to medical science given that there have been nearly 163,000,000 cases of infection worldwide, resulting in more than 3,380,000 deaths.

(10) On January 20, 2020, China confirmed person-to-person transmission of the novel coronavirus and infections among medical workers.

(11) On January 21, 2020, the United States CDC announced the first COVID–19 case in the United States.

(12) On January 30, 2020, WHO Director-General Tedros declared the epidemic a Public Health Emergency of International Concern, and President Donald J. Trump announced the formation of the President’s Coronavirus Task Force. In a statement from the WHO regarding the second meeting of its International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (2019–nCoV), the Committee specifically did “not recommend any travel or trade restriction based on the current information available”.

(13) On January 31, 2020, President Trump suspended entry into the United States of most for-
eigners who were physically present in mainland China during the preceding 14-day period, effective February 2, 2020, and Secretary Azar declared a public health emergency for the United States to aid response to the novel coronavirus.

(14) On February 1, 2020, then-presidential candidate Joe Biden recklessly downplayed the risk of the virus, suggesting in a tweet that President Trump’s efforts to limit the spread of the virus were nothing more than “hysteria, xenophobia, and fear-mongering”.

(15) Numerous individuals criticized these travel restrictions. When asked “if you had to, would you close down the borders?” to stop the spread of coronavirus, Senator Bernie Sanders said, “no”. When asked about these travel restrictions, Representative Nancy Pelosi stated, “[a]ctually tens of thousands of people were allowed in from China, it wasn’t as it was described as this great moment”. WHO Director-General Tedros Adhanom Ghebreyesus was reported to say that widespread travel bans and restrictions were not needed to stop the outbreak and could “have the effect of increasing fear and stigma, with little public health benefit”. Reportedly, Representative Ami Bera stated
that the travel ban “probably doesn’t make sense”
since the outbreak had already spread to several
other countries, that such measures were causing an
antagonistic relationship with the Chinese, and such
mandatory quarantines “may be overkill”.

(16) Health experts have since noted that the
eyear United States restrictions imposed on travelers
from China saved American lives. Former CDC di-
rector Dr. Tom Frieden noted that “[t]he travel ban
with China made a difference . . . It resulted in a
significant delay in the number of people coming in
with infection and because of that, that bought time
in the U.S. to better prepare.”. While testifying be-
fore the House of Representatives, Dr. Anthony
Fauci was asked if he believed that the travel re-
strictions saved lives, to which Dr. Fauci answered,
“yes, I do”.

(17) On February 26, 2020, United States
CDC confirmed a case of COVID–19 in California
in a person who reportedly did not have relevant
tavel history or exposure to another known patient
with COVID–19.

(18) On February 29, 2020, United States
CDC reported the first COVID–19 death in United
States, though later public reports indicated that the
first death from COVID–19 may have been weeks earlier.

(19) In a 60 Minutes interview posted on March 8, 2020, Dr. Anthony Fauci stated that “right now in the United States, people should not be walking around with masks . . . there’s no reason to be walking around with a mask. When you’re in the middle of an outbreak wearing a mask might make people feel a little bit better, and it might even block a droplet, but it’s not providing the perfect protection that people think that it is. And often, there are unintended consequences, people keep fiddling with the masks, and they keep touching their face . . . But, when you think masks, you should think of healthcare providers needing them and people who are ill. The people who, when you look at the films of foreign countries and you see eight-five percent of the people wearing masks, that’s fine. That’s fine. I’m not against it. If you want to do it, that’s fine . . . It could lead to a shortage of masks for the people who really need it.”

(20) On April 3, 2020, United States CDC updated its guidance on facial coverings, recommending that Americans wear facial coverings in
public settings and especially when social distancing measures are difficult to maintain.

(21) On May 15, 2020, the Trump administration announced the establishment of Operation Warp Speed, a public-private partnership to expedite the timeline for development, large scale manufacturing, and delivery of a safe and effective COVID–19 vaccine to the American public. The initial goal of the project was to develop at least 1 vaccine and begin administering it to Americans before the end of 2020. As reported on BioCentury, Dr. Anthony Fauci noted that the fastest a vaccine might be ready for use in an emergency would be 1 year, although the process could take up to 2 years. Before the Senate on March 3, 2020, Dr. Fauci stated that the process would likely take at least 1 to 1½ years to have a vaccine that could be administered to American persons. Some, such as the analytics firm Clarivate, concluded that it might take at least 5 years for the leading vaccine candidates, like Moderna, to complete the development process through full regulatory approval.

(22) Operation Warp Speed and other government actions sped COVID–19 vaccine development by enabling typical vaccine development steps to be
taken simultaneously with manufacturing and distribution planning. As part of these actions, the Federal Government made investments in critical manufacturing capacity, giving pharmaceutical companies confidence that if they invested in developing a vaccine, once the vaccine received authorization from the Food and Drug Administration, these companies would be able to immediately begin distributing the vaccine.

(23) Despite efforts to speed vaccine development to address the COVID–19 pandemic, the emergency use authorization (EUA) process utilized by the Food and Drug Administration (FDA) appears to have met rigorous safety and efficacy standards.

(24) On July 14, 2020, United States CDC issued stronger recommendations to wear masks as a strategy for preventing the spread of COVID–19. United States CDC Director Robert Redfield, in a news release from the agency, identified masks as “one of the most powerful weapons we have to slow and stop the spread of the virus”.

(25) On December 11, 2020, the FDA issued the first EUA for a vaccine for the prevention of COVID–19 in individuals 16 years of age and older.
The EUA allowed the Pfizer-BioNTech COVID–19 Vaccine to be distributed in the United States.

(26) On December 18, 2020, the FDA issued an EUA for the second vaccine for the prevention of COVID–19 in individuals 16 years of age and older. The EUA allowed the Moderna COVID–19 Vaccine to be distributed in the United States for use in individuals 18 years of age and older.

(27) On February 27, 2021, the FDA issued an EUA for the third vaccine for the prevention of COVID–19. The EUA allowed the Janssen COVID–19 Vaccine to be distributed in the United States for use in individuals 18 years of age and older.

(28) Because of the hard work of countless Americans, this public-private partnership, and the funding and support from Congress, multiple safe and effective COVID–19 vaccines have been, and are still being, developed and manufactured, and, as of May 16, 2021, about 273,000,000 vaccine doses had been administered in the United States.

(29) Despite the successful development and rollout of the current COVID–19 vaccines, it is not fully known whether these vaccines will protect people from the emergence and potential future emerg-
gence of variants of SARS–CoV–2, the virus that causes COVID–19.

(30) The emergence of future variants of SARS–CoV–2 could require that the United States continue to develop new COVID–19 vaccines and that people receive a COVID–19 booster shot on a regular, potentially annual, basis to maintain immu-

(31) According to the FDA fact sheets on COVID–19 vaccines, there are certain populations for whom existing COVID–19 vaccines are not indi-
cated or authorized or for whom there is insufficient data to inform vaccine-related risks including—

(A) people with severe allergies to vaccine components or who are immunocompromised;

(B) people with certain pre-existing condi-
tions such as bleeding disorders and women who are pregnant, trying to get pregnant, or breastfeeding; and

(C) children under the age of 18.

(32) Because of potential risks that the vaccine poses to certain people, it is important that every patient is able to consult his or her doctor to deter-
mine whether one of the COVID–19 vaccines is ap-

appropriate for that patient.
Consistent with fundamental human rights, and medical and legal ethics and proper standards of medical care, every American has the right to “informed consent” with respect to medical treatment, meaning that he or she has a right to be fully informed about the nature of his or her health care and to participate in and voluntarily make decisions related to his or her care. In addition, every patient has a right to medical privacy to expect that the decisions and nature of care will be kept confidential by his or her health care provider and anyone who has access to the individual’s medical records, including vaccination records.

At various times in history, governments and medical professionals have violated these and other inherent rights including by coercing patients, failing to properly inform patients of, or even intentionally begin deceptive with patients about, their rights and the risks inherent with various medical procedures, experiments, and studies—including the Tuskegee syphilis experiments, forced sterilization, lobotomy procedures, electro-shock therapy, certain psychological studies, collection and utilization of individuals’ cells and parts of their body, or from fetal
tissue of a patient’s offspring, without knowledge or
consent, and eugenics laws.

(35) The absence of informed consent not only
constitutes a violation of medical ethics and stand-
ards of care, in some cases, treatment may also con-
stitute a crime, such as battery.

(36) Criminal battery stemming from violations
of medical ethics and informed consent standards
have led to a significant degree of distrust of the
government, public health officials, and medical pro-
fessionals by certain groups and communities includ-
ing among the most vulnerable populations such as
ethnic minorities, immigrants, economically dis-
advantaged, unmarried mothers, those with disabil-
ities, and those with mental illnesses.

(37) On January 12, 2021, United States CDC
issued an order requiring proof of a negative
COVID–19 test for all air passengers arriving from
a foreign country to the United States, and on Feb-
uary 14, 2021, the United States CDC announced
it would not recommend required testing for domes-
tic air travel.

(38) On March 19, 2021, the WHO released
draft recommendations for a Smart Vaccine Certifi-
cate—what amounts to a form of a “vaccine pass-
port” that would, per WHO’s “Smart Vaccination Certificate Working Group”, “support COVID–19 vaccine delivery and monitoring” and to serve “current and future requirements, toward the dual purposes of (1) supporting continuity of care; and (2) cross-border uses”.

(39) The International Air Transport Association has developed the Travel Pass Initiative to gather information on entry and exit testing requirements, allow passengers to create a digital passport that verifies testing and vaccination status, and establish the capability of sharing health data with government authorities.

(40) The European Commission has proposed a Digital Green Certificate on March 17, 2021, to prove a passenger’s vaccination status, test results, and COVID–19 antibodies that may be adopted by a country for public health restrictions.

(41) The State of New York is testing a vaccine certification to be used for admission into public events.

(42) More than 225 companies and organizations are involved in what is known as the Vaccination Credential Initiative, a program intended to es-
tablish standards for developers to build digital vac-
cine passports.

(43) On April 2, 2021, the United States CDC
announced vaccinated people could travel safely. On
April 5, 2021, the United States CDC rec-
ommended, but did not require, passengers to be
vaccinated, though cruise ships are still not per-
mitted to resume normal operations.

(44) The White House, while saying the
COVID–19 Task Force will not create a vaccine
passport, has engaged in a multi-agency coordina-
tion effort led by the Office of the National Coordi-
nator for Health Information Technology to develop
criteria and principles for a vaccine passport created
by the private sector.

(45) The private sector, which includes many
large technology companies that previously have
shown disregard for privacy and a willingness to en-
gage in censorship of Americans while bowing to the
will of the Chinese Communist party, are pursuing
digital vaccine passports that can be adopted by gov-
ernments and other public establishments to authen-
ticate personal health information.

(46) During a March 2, 2021, virtual meeting
lead by the Federal Health IT Coordinating Council
on behalf of the Biden Administration, a slide presentation included the following: “Proof of individual COVID-related health status is likely to be an important component of pandemic response, proof of immunization will likely become a major, if not the primary, form of health status validation,” and a “unified Federal approach [is] required to ensure Federal activities are working toward the same common goals for vaccine [passports].” Additionally, the presentation suggested the Biden Administration expects that “Federal entities” would “likely require vaccine verification for a variety of purposes” and that the “Federal government will inevitably be involved with vaccine credential solutions . . . .”.

(47) The Federal Health IT Coordinating Council also listed a number of international organizations and private companies that are working on the development of vaccine passports.

(48) The development, implementation, and utilization of vaccine passports, whether by Federal or State government, or the private sector, has the potential for significant misuse and abuse, leading to the denial of constitutionally protected freedoms such as freedom of association and freedom of movement, and could allow the government or corporate
interests to begin to track people’s health status on a large-scale basis.

(49) There currently exists no clear regulatory framework to fully protect the privacy of United States citizens and United States nationals with respect to their vaccination records and negative COVID–19 test results.

(50) The widespread utilization of vaccine passports will certainly lead to discrimination by businesses that provide public accommodations as they could begin to require a customer to demonstrate his or her health status, through the presentment of a vaccine passport or other “papers” or by requiring that the customer disclose his or her protected health information, before the business agrees to serve or otherwise do business with such individual, meaning the denial of service in such cases could be based on an individual’s disability, health status, or familial status, such as a restaurant denying service to a man who has not been vaccinated based on the advice of his doctor due to a previous anaphylaxis (allergic) reaction to an ingredient found in the COVID–19 vaccines.

(51) The widespread acceptance of vaccine passports could also lead to employment discrimina-
tion, where employers take adverse employment ac-
tions against employees who are not vaccinated be-
cause of an underlying health condition and without
regard to the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) (ADA), which re-
quires an interactive process whereby the employer
follows the law to assess if the employee can and
should be reasonably accommodated under the ADA.
For example, without proper disability protections,
an employer could terminate a female employee who
has not been vaccinated based on the advice of her
doctor simply because she is pregnant.

(52) In February 2021, a business in New York
told its employees that the business was instituting
a vaccine mandate and, when a woman who worked
there decided against getting a COVID–19 vaccine
because she was trying to get pregnant, she was told
her employment was being terminated.

(53) In March 2021, a woman in Cumberland
County, Pennsylvania was suspended from her job
after her employer issued a vaccine mandate for its
employees. The woman, who said she is not anti-vac-
cination, wanted sufficient time to consult with her
doctor to see if the vaccine was appropriate for her.
(54) For women who are pregnant or breastfeeding, the CDC has indicated that “the potential risks of COVID–19 vaccines to the pregnant person and the fetus are unknown because these vaccines have not been studied in pregnant people”. Accordingly, it is highly likely that the implementation and use of vaccine passports, refusal to provide services to unvaccinated persons, and decision by employers to impose a vaccine mandate and to take adverse employment actions against unvaccinated employees, are likely to be unfair and discriminatory, disparately impacting women because of their sex.

(55) Given that several COVID–19 vaccines are not recommended for children under the age of 12, the implementation and widespread utilization of vaccine passports could lead to the refusal to provide services to unvaccinated persons, such as the denial of services to families with small children, meaning certain vaccine-related policies could lead to age or familial-status-related discrimination.

(56) The denial of public services and public accommodations, as well as adverse employment actions, based on COVID–19 vaccination status, lack of or refusal to present a vaccine passport, refusal
to get vaccinated, or requiring an individual to explain the underlying reason why they are not vaccinated, could constitute unlawful discrimination, including as to sex, age, familial status, disability, or based on genetic or other health condition.

(57) Any United States person that requests the vaccine records of a United States individual, including data such as a copy or other digital record of a vaccine passport or similar proof of vaccination, should be regarded as having collected “protected health information” and should be regarded as a “covered entity” as defined under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191).

(58) The policy of the United States is to recognize, defend, and protect the inherent rights of the individual, including the right to privacy, the right of liberty, the right to be secure in one’s person, the right of the individual to be informed about any medical procedures, treatment, or vaccination, and the right of the individual to provide or withhold consent to such procedures, treatment, or vaccination.

(59) Congress recognizes that special vigilance is required, especially in times of crisis or emergency
to ensure that government agencies do not try to take advantage of, manipulate, or enflame public fear, stoke hatred of minority groups, or increase intolerance toward the diversity that builds our Nation.

(60) Congress finds that there is a clear need for the Federal Government to take specific action to restore public trust by protecting the privacy and voluntary informed consent rights of patients specifically regarding vaccinations and an individual’s vaccination records.

(61) Furthermore, the protection of such individual rights to make one’s own medical decisions in consultation with his or her health care provider without fear of coercion, forced vaccination, loss of civil liberties, or risk of adverse employment action is especially needed at a time when it is critical for our Nation to increase public trust in vaccinations and increase vaccination rates in order to end the COVID–19 pandemic.

SEC. 3. SEVERABILITY.

(a) IN GENERAL.—If any provision of this Act, or an amendment made by this Act, or the application of any such provision or amendment to any person or circumstance is declared invalid or unconstitutional, the re-
mainder of this Act, including any amendment made by
this Act, and the application of such provisions and
amendments to any person or circumstance shall not be
affected.

(b) Effect of Partial Invalidation, Repeal, or
Amendment.—The invalidation, repeal, or amendment of
any part of this Act, or amendment made by this Act,
does not release or extinguish any penalty, forfeiture, or
liability incurred or right accruing or accrued under this
Act (or amendment), unless the invalidation, repeal, or
amendment so provides expressly. This Act, and amend-
ments made by this Act, shall be treated as remaining in
force for the purpose of sustaining any proper action or
prosecution for the enforcement of the right, penalty, for-
feiture, or liability pursuant to the previous sentence.

TITLE I—GENERAL PROVISIONS
Subtitle A—Health Information
Privacy Protections

SEC. 101. PROHIBITION ON ESTABLISHMENT OF FEDERAL
VACCINE PASSPORTS AND TRACKING OF IN-
DIVIDUALS.

(a) IN GENERAL.—No Federal funds may be used
to create, establish or collaborate in the establishment of
any Federal, State, private, or international vaccine pass-
port system, vaccine tracking database, or similar system
or in the creation or adoption of any related guidelines or standards, under which Federal, State, or international government agencies or private companies would be able to monitor or track individuals who have been vaccinated against COVID–19, or which could otherwise be used to limit the freedom of movement or the freedom of association of individuals based on their COVID–19 vaccination status.

(b) PERSONAL PRIVACY.—To the extent any Federal department or agency has received, obtained, collected, aggregated, stored, or is otherwise in possession of any data or records from officials, including public health officials, in any State, the District of Columbia, or any territory, or any third party who administered or has information related to the administration of any COVID–19 vaccinations, including health care providers and insurers, such data and records about any individuals’ vaccination status shall be destroyed by the Federal department or agency and, if in digital form, that data record shall be deleted in its entirety within 30 days of the enactment of this Act.

(c) REPORTING.—For any Federal department or agency that has received and subsequently destroyed COVID–19 data or records as required by this section, the head of such agency shall, not later than 15 days after such data or records have been destroyed, submit a sworn
affidavit, subject to penalty of perjury, to Congress con-
firming that he or she has personally assured such data
or records have been destroyed.

(d) CRIMINAL PENALTIES.—Any person who know-
ingly makes or is responsible for the inclusion of a state-
ment or representation in an affidavit under subsection
(c) that is materially false, fictitious, or fraudulent shall
be fined not more than $10,000, imprisoned not more
than 1 year, or both.

(e) PROHIBITION ON FEDERAL ISSUANCE OR VAC-
cine Passport or Similar Documentation and Pro-
hibition on Vaccination Requirement To Enter
Federal Property or Services.—

(1) IN GENERAL.—No Federal department or
agency may issue a vaccine passport, vaccine pass,
or other standardized documentation for the purpose
of certifying the COVID–19 vaccination status of a
citizen of the United States to a third party, or oth-
erwise publish or share any COVID–19 vaccination
record of a citizen of the United States, or similar
health information.

(2) ACCESS TO FEDERAL PROPERTY AND SERV-
ices.—Proof of COVID–19 vaccination shall not be
deemed a requirement for access to Federal property
or Federal services, or for access to congressional
grounds or services.

(f) Exceptions.—

(1) Deidentified or anonymized information for certain purposes.—The prohibition de-
scribed in subsection (a) shall not apply to the ag-
gregation and sharing of information that has been
deidentified or anonymized if such information is
used for purposes of Federal, State, or local public
health reporting or academic studies, provided that
the recipient of such information does not have the
capability to reconstruct the data in any way that
would allow for the determination of the vaccination
status of any individual.

(2) Limited use of information with re-
spect to federal employees.—The prohibition
described in subsection (a) and the requirement de-
scribed in subsection (b) shall not apply to the pos-
session by a Federal department or agency of
COVID–19 vaccination data or records pertaining to
any employee of such department or agency where
such data or records will be used solely to determine
if such employee would be eligible to gain admission
to a foreign country during international travel in
furtherance of the employee’s official duties.
SEC. 102. VACCINE STATUS PROTECTIONS UNDER HIPAA

PRIVACY REGULATIONS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall amend the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note) to establish the following:

(1) Reporting by covered entities to public health entities of non-anonymized protected health information related to an individual’s vaccination status is not permissible, even during public health emergencies, without express patient consent.

(2) Any United States person that requests the vaccine records of a United States individual shall be deemed to be a covered entity for purposes of such request.

(3) With respect to any individual who shares their vaccine status with any covered entity, the covered entity shall comply with any request from such individual to—

(A) delete all protected health information that identifies the individual’s vaccination status, including in relation to any records shared with the covered entities’ business associates, in all active and inactive databases; and
(B) provide to such individual written con-
firmation of such deletion.

(b) Definitions.—In this section, the terms “busi-
ness associate”, “covered entity”, “protected health infor-
mation” have the meanings given such terms in section
160.103 of title 21, Code of Federal Regulations (or any
successor regulations).

Subtitle B—Consent to Vaccination

SEC. 111. VACCINATIONS.

(a) In General.—Part I of title 18, United States
Code, is amended by inserting after chapter 117 the fol-
lowing:

“CHAPTER 117A—VACCINATIONS

“§ 2431. Vaccinations

“(a) Requirements.—

“(1) In General.—Except as provided in para-
graph (2), it shall be unlawful to—

“(A) require any United States person to
receive a vaccine that has only received author-
ization by the Food and Drug Administration
through an emergency use authorization pursu-
ant to section 564 of the Federal Food, Drug,
and Cosmetic Act (21 U.S.C. 360bbb–3), or
that has received such authorization prior to re-
ceiving full approval or licensure under section
505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or section 351 of the Public Health Service Act (42 U.S.C. 262); or

“(B) vaccinate with a vaccine that has only received authorization by the Food and Drug Administration through such an emergency use authorization, or that has received such authorization prior to receiving such full approval or licensure—

“(i) an individual under the age of 18;

or

“(ii) an individual that lacks the capacity to exercise the right to consent to be vaccinated.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply if the individual, or if the individual is a minor or is otherwise unable to consent, a parent, guardian, conservator, or attorney-in-fact of the individual, provides consent to be vaccinated.

“(3) SUNSET.—This subsection shall cease to have force or effect on the date that is 5 years after the date of enactment of this section.

“(b) RIGHT TO BE INFORMED.—Any person that administers a vaccine for the coronavirus disease 2019 (COVID–19) shall, consistent with medical ethics and ap-
applicable informed consent laws of the State in which the
vaccine is administered and any applicable Federal regula-
tions related to informed consent laws, disclose to any in-
dividual, before the vaccine is administered, the risks asso-
ciated with the vaccine so that the individual can make
an informed decision.

“(c) Protecting Privacy.—

“(1) In general.—Except as provided in sub-
paragraph (B), it shall be unlawful for any person
to publicly disclose information about the COVID–
19 vaccination status of an individual without the
express consent of the individual if the individual
provided the information to the person—

“(A) as an employee in the context of an
employer-employee relationship;

“(B) as an independent contractor where
the vaccination status was provided to the per-
son to whom the contractor is providing serv-
ices;

“(C) as a consumer in the context of any
consumer transaction;

“(D) as a patient in order to obtain med-
ical care or health-related services from any
health care provider; or
“(E) the user of any technology application, platform, or service.

“(2) REQUIREMENTS.—For purposes of this subsection, an individual does not provide express consent to the disclosure of a COVID–19 vaccination status unless—

“(A) the individual agrees to the circumstances of disclosure in writing; and

“(B) the agreement is not conditioned on or contained within any other agreement.

“(3) EXCEPTION.—Paragraph (1) shall not apply if the parent or guardian of the individual provides consent to the disclosure described in that subparagraph.

“(d) CRIMINAL PENALTIES.—Whoever knowingly violates subsection (a) or (c) shall be imprisoned no more than 1 year, fined in accordance with this title, or both.

“(e) CIVIL PENALTIES.—Any person who receives the COVID–19 vaccination status of an individual under circumstances that would create a reasonable expectation of privacy in that status, including the circumstances listed in subparagraphs (A) through (E) of subsection (c)(1), and who either intentionally or negligently discloses that status to the public without the consent of the individual
shall be subject to a civil fine not to exceed $25,000 per
disclosure or any actual damages suffered.

“(f) PREEMPTION.—This section does not annul,
alter, or affect any law of any State or local government
that provides a greater level of privacy than the provisions
in this section.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—
The table of chapters for part I of title 18, United States
Code, is amended by inserting after the item relating to
section 117 the following:

“117A. Vaccinations ........................................... 2431”.

TITLE II—PROHIBITION OF DIS-
CRIMINATION BASED ON VAC-
CINATION STATUS

Subtitle A—Nondiscrimination in
Employment

SEC. 201. DEFINITIONS.

In this section:

(1) ADA TERMS.—The terms “direct threat”
and “undue hardship” have the meaning given those
terms in section 101 of the Americans with Disabil-

(2) COVERED ENTITY.—The term “covered en-
tity”—
(A) has the meaning given the term “respondent” in section 701(n) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(n)); and

(B) includes—

(i) an employer, which means a person engaged in industry affecting commerce who has 15 or more employees as defined in section 701(b) of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)); and

(ii) an entity to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.

(3) Employee.—The term “employee” means—

(A) an employee (including an applicant), as defined in section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f)); and

(B) an employee (including an applicant) to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.

(4) Person; commerce; industry affecting commerce.—The terms “person”, “commerce”, and “industry affecting commerce” shall have the same
meaning given such terms in section 701 of the Civil

(5) Qualified Employee.—The term “qualified employee” means an employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the employment position. For the purposes of this title, consideration shall be given to the employer’s judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

(6) Reasonable Accommodation.—The term “reasonable accommodation” may include—

(A) job restructuring, modified work schedules, telework, reassignment to a vacant position, or wearing a mask or personal protective equipment; and

(B) physical distancing for an unvaccinated individual or an unvaccinated individual wearing a mask or personal protective equipment, to the extent that the unvaccinated individual interacts with individuals who are
vulnerable to COVID–19 and unvaccinated for COVID–19.

(7) VACCINATION STATUS.—The term “vaccination status” means—

(A) an individual’s status based on the voluntary election to receive or not to receive a COVID–19 vaccine; and

(B) regardless of whether someone has or has not been vaccinated against COVID–19, an individual’s status with respect to having or producing proof of such vaccination in the form of a vaccine passport or other medical records that would demonstrate whether an individual has been vaccinated against COVID–19.

SEC. 202. DISCRIMINATION PROHIBITED.

(a) GENERAL RULE.—No covered entity shall discriminate against a qualified employee on the basis of vaccination status, or the qualified employee’s unwillingness or inability to present a vaccine passport or other proof of having a COVID–19 vaccine, in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) CONSTRUCTION.—
(1) **IN GENERAL.**—As used in subsection (a), the term "discriminate against a qualified employee on the basis of vaccination status" includes—

(A) limiting, segregating, or classifying an employee in a way that adversely affects the opportunities or status of such employee because of the vaccination status of such employee;

(B) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity’s qualified employee based on vaccination status to the discrimination prohibited by this title (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(C) utilizing standards, criteria, or methods of administration—

(i) that have the effect of discrimination on the basis of vaccination status; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control;
(D) excluding or otherwise denying equal benefits to a qualified employee because of the known vaccination status of an individual with whom the qualified employee is known to have a relationship or association;

(E)(i) not making reasonable accommodations based on vaccination status for an otherwise qualified employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(ii) denying employment opportunities to an employee who is an otherwise qualified employee based on vaccination status, if such denial is based on the need of such covered entity to make reasonable accommodation based on the vaccination status of the qualified employee; and

(F) using qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual or a class of individuals based on vaccination status unless the standard, test or other selection criteria, as used by the covered entity, is
shown to be job-related for the position in question and is consistent with business necessity.

(2) Exclusions.—Notwithstanding any other provision of this section, the term “discriminate against a qualified individual on the basis of vaccination status” does not include—

(A) requiring physical distancing by or from individuals who are particularly vulnerable to COVID–19 or have not been fully vaccinated for COVID–19;

(B) requiring a qualified employee to wear a mask or to utilize other personal protective equipment; or

(C) conducting any symptom check as described in subsection (d)(3).

(e) Covered Entities in Foreign Countries.—

It shall not be unlawful under this section for a covered entity to take any action that constitutes discrimination under this section with respect to an employee in a workplace in a foreign country if compliance with this section would cause such covered entity to violate the law of the foreign country in which such workplace is located.

(d) Medical Examinations and Inquiries.—

(1) In general.—Consistent with paragraph (2), the prohibition against discrimination as re-
ferred to in subsection (a) shall include medical examinations designed to reveal a qualified employee’s vaccination status and inquiries about a qualified employee’s vaccination status or reasons for choosing not to receive a COVID–19 vaccine.

(2) **Prohibited Examinations and Inquiries.**—A covered entity shall not require a medical examination designed to reveal a qualified employee’s vaccination status and shall not make inquiries of an employee as to the vaccination status of the employee or reasons for choosing not to receive a COVID–19 vaccine unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(3) **Symptom Checks Permitted.**—Notwithstanding any other provision of this title, a covered entity may implement basic health screenings that ask individuals if they have symptoms associated with COVID–19 as long as the covered entity does not discriminate against a qualified employee, as described in subsection (a), based on those symptoms, provided that the covered entity does not discriminate on the basis of vaccination status when taking any action in response to any symptom check.
SEC. 203. DEFENSES.

(a) In General.—It may be a defense to a charge of discrimination under this title that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to a qualified employee based on vaccination status has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

(b) Religious Entities.—

(1) In General.—This title shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(2) Religious Tenets Requirement.—Under this title, a religious organization may require that all applicants and employees conform to the religious tenets of such organization.

SEC. 204. REMEDIES AND ENFORCEMENT.

(a) Employees Covered by Title VII of the Civil Rights Act of 1964.—
(1) **IN GENERAL.**—The powers, remedies, and procedures provided in sections 705, 706, 707, 709, 710, and 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4 et seq.) to the Commission, the Attorney General, or any person alleging a violation of title VII of such Act (42 U.S.C. 2000e et seq.) shall be the powers, remedies, and procedures this Act provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(3)(A) except as provided in paragraphs (2) and (3) of this subsection.

(2) **COSTS AND FEES.**—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988) shall be the powers, remedies, and procedures this Act provides to the Board or any person alleging such practice.

(3) **DAMAGES.**—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be the powers, remedies, and procedures this title provides to the Board or any person
alleging such practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(b) EMPLOYEES COVERED BY SECTION 717 OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) to the Commission, the Attorney General, the Librarian of Congress, or any person alleging a violation of that section shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(3)(B), except as provided in paragraphs (2) and (3) of this subsection.

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988) shall be the powers, remedies, and procedures this Act provides to the Commission, the Attorney General, the Librarian of Congress, or any person alleging such practice.
(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person alleging such practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(c) PROHIBITION AGAINST RETALIATION.—

(1) IN GENERAL.—No person shall discriminate against any employee because such employee has opposed any act or practice made unlawful by this title or because such employee made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

(2) PROHIBITION AGAINST COERCION.—It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of such individual having exercised or enjoyed, or on account of such individual having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this title.
(3) REMEDY.—The remedies and procedures otherwise provided for under this section shall be available to aggrieved individuals with respect to violations of this subsection.

(d) LIMITATION.—Notwithstanding subsections (a)(3) and (b)(3), if an unlawful employment practice involves the provision of a reasonable accommodation pursuant to this title or regulations implementing this title, damages may not be awarded under section 1977A of the Revised Statutes (42 U.S.C. 1981a) if the covered entity demonstrates good faith efforts, in consultation with the qualified employee, to identify and make a reasonable accommodation that would provide such employee with an equally effective opportunity and would not cause an undue hardship on the operation of the covered entity.

Subtitle B—Nondiscrimination in Public Accommodation

SEC. 211. DEFINITIONS.

In this subtitle:

(1) ADA TERMS.—The terms “commerce”, “commercial facilities”, “private entity”, and “public accommodation” have the meanings given those terms in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).
(2) INDIVIDUAL WHO HAS NOT RECEIVED A COVID–19 VACCINE.—The term “individual who has not received a COVID–19 vaccine” means an individual who has not received a COVID–19 vaccine or who does not have or cannot produce proof of having such a vaccine.

(3) VACCINATION STATUS.—The term “vaccination status” means—

(A) an individual’s status based on the voluntary election to receive or not to receive a COVID–19 vaccine; and

(B) regardless of whether someone has or has not been vaccinated against COVID–19, an individual’s status with respect to having or producing proof of such vaccination in the form of a vaccine passport or other medical records that would demonstrate whether an individual has been vaccinated against COVID–19.

SEC. 212. PROHIBITION OF DISCRIMINATION BY PLACES OF PUBLIC ACCOMMODATION.

(a) GENERAL RULE.—Subject to the provisions of this subtitle, no individual shall be discriminated against on the basis of vaccination status, or the individual’s unwillingness or inability to present a vaccine passport or other proof of having a COVID–19 vaccine, in the full and
equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) Construction.—

(1) General prohibition.—

(A) Activities.—

(i) Denial of participation.—It shall be discriminatory to subject an individual or class of individuals on the basis of the vaccination status of such individual or class of individuals, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) Participation in unequal benefit.—It shall be discriminatory to afford an individual or class of individuals, on the basis of vaccination status of such individual or class of individuals, directly, or through contractual, licensing, or other arrangements with the opportunity to partici-
pate in or benefit from a good, service, fa-
cility, privilege, advantage, or accommoda-
tion that is not substantially equal to that
afforded to other individuals.

(iii) SEPARATE BENEFIT.—It shall be
discriminatory to provide an individual or
class of individuals, on the basis of vac-
cination status of such individual or class
of individuals, directly, or through contrac-
tual, licensing, or other arrangements with
a good, service, facility, privilege, advan-
tage, or accommodation that is different or
separate from that provided to other indi-
viduals, unless such action is necessary to
provide the individual or class of individ-
uals with a good, service, facility, privilege,
advantage, or accommodation, or other op-
portunity that is as effective as that pro-
vided to others.

(iv) INDIVIDUAL OR CLASS OF INDIV-
DUALS.—For purposes of clauses (i)
through (iii) of this subparagraph, the
term “individual or class of individuals”
refers to the clients or customers of the
covered public accommodation that enters
into the contractual, licensing or other arrangement.

(B) INTEGRATED SETTINGS.—Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual regardless of vaccination status in the most integrated setting appropriate.

(C) OPPORTUNITY TO PARTICIPATE.—Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual who has not received a COVID–19 vaccine shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(D) ADMINISTRATIVE METHODS.—An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration—

(i) that have the effect of discriminating on the basis of vaccination status;

or
(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) ASSOCIATION.—It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the vaccination status of an individual with whom the individual or entity is known to have a relationship or association.

(2) SPECIFIC PROHIBITIONS.—

(A) DISCRIMINATION.—For purposes of subsection (a), discrimination includes—

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual who has not had a COVID–19 vaccine or any class of such individuals from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered; and
(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals who have not received a COVID–19 vaccine, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations.

(3) SPECIFIC CONSTRUCTION.—Nothing in this title shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term “direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by physical distancing, wearing a mask, or wearing personal protective equipment.

(e) DISTANCING AND PPE.—Notwithstanding any other provision of this section, an individual shall not be considered to be discriminated against on the basis of vac-
cination status in violation of this section if that individual
is required to engage in physical distancing, wear a mask,
or wear personal protective equipment.

SEC. 213. PROHIBITION OF DISCRIMINATION IN SPECIFIED
PUBLIC TRANSPORTATION SERVICES PROVIDED BY PRIVATE ENTITIES.

(a) General Rule.—No individual shall be dis-


criminated against on the basis of vaccination status, or

the individual’s unwillingness or inability to present a vac-
cine passport or other proof of vaccinations status, in the

full and equal enjoyment of specified public transportation

services provided by a private entity that is primarily en-
gaged in the business of transporting people and whose
operations affect commerce.

(b) Construction.—For purposes of subsection (a),
discrimination includes—

(1) the imposition or application by an entity
described in subsection (a) of eligibility criteria that
screens out or tends to screen out an individual
based on vaccination status or any class of individ-
uals based on vaccination status from fully enjoying
the specified public transportation services provided
by the entity, unless such criteria can be shown to
be necessary for the provision of the services being
offered; and
(2) the failure of such entity to make reason-
able modifications, including physical distancing for
an unvaccinated individual or an unvaccinated indi-
vidual wearing a mask or personal protective equip-
ment, to the extent that the unvaccinated individual
interacts with individuals who are vulnerable to
(c) DISTANCING AND PPE.—Notwithstanding any
other provision of this section, an individual shall not be
considered to be discriminated against on the basis of vac-
cination status in violation of this section if that individual
is required to engage in physical distancing, wear a mask,
or wear personal protective equipment.
SEC. 214. EXEMPTIONS FOR PRIVATE CLUBS AND RELI-
GIOUS ORGANIZATIONS.
The provisions of this subtitle shall not apply to pri-
vate clubs or establishments exempted from coverage
under title II of the Civil Rights Act of 1964 (42 U.S.C.
2000–a(e)) or to religious organizations or entities con-
trolled by religious organizations, including places of wor-
ship.
SEC. 215. ENFORCEMENT.
(a) AVAILABILITY OF REMEDIES AND PROCE-
DURES.—The remedies and procedures set forth in section
204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a–
3(a)) are the remedies and procedures this subtitle provides to any person who is being subjected to discrimination on the basis of vaccination status in violation of this subtitle or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of this subtitle. Nothing in this section shall require a person who has not received a COVID–19 vaccine to engage in a futile gesture if such person has actual notice that a person or organization covered by this subtitle does not intend to comply with its provisions.

(b) Enforcement by the Attorney General.—

(1) Denial of rights.—

(A) Authority to investigate.—The Attorney General shall have the authority to investigate alleged violations of this subtitle, and shall undertake periodic reviews of compliance of entities subject to this subtitle.

(B) Potential violation.—If the Attorney General has reasonable cause to believe that—

(i) any person or group of persons is engaged in a pattern or practice of discrimination under this subtitle; or

(ii) any person or group of persons has been discriminated against under this
subtitle and such discrimination raises an
issue of general public importance;
the Attorney General may commence a civil ac-
tion in any appropriate United States district
court.

(2) AUTHORITY OF COURT.—In a civil action
under paragraph (1)(B), the court—

(A) may grant any equitable relief that
such court considers to be appropriate, includ-
ing, to the extent required by this subtitle—

(i) granting temporary, preliminary,
or permanent relief;

(ii) providing a modification of policy,
practice, or procedure, or alternative meth-
on; and

(iii) making reasonable accommoda-
tions for individuals who have not received
a COVID–19 vaccine;

(B) may award such other relief as the
court considers to be appropriate, including
monetary damages to individuals aggrieved
when requested by the Attorney General; and

(C) may, to vindicate the public interest,
assess a civil penalty against the entity subject
to this subtitle in an amount—
(i) not exceeding $50,000 for a first violation; and

(ii) not exceeding $100,000 for any subsequent violation.

(3) SINGLE VIOLATION.—For purposes of paragraph (2)(C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the entity subject to this subtitle has engaged in more than one discriminatory act shall be counted as a single violation.

(4) PUNITIVE DAMAGES.—For purposes of paragraph (2)(B), the term “monetary damages” and “such other relief” does not include punitive damages.

(5) JUDICIAL CONSIDERATION.—In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to any good faith effort or attempt to comply with this Act by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for a reasonable accommodation for individuals who have not received a COVID–19 vaccine.
SEC. 216. EFFECTIVE DATE.

This subtitle shall become effective 90 days after the date of the enactment of this Act.

Subtitle C—Nondiscrimination by a Public Entity and Access to Federal Services

SEC. 221. NONDISCRIMINATION BY A PUBLIC ENTITY.

(a) In General.—Subject to the provisions of this subtitle, no qualified individual who has not received a COVID–19 vaccine shall, by reason of such vaccination status, including the qualified individual's unwillingness or inability to present a vaccine passport or other proof of having a COVID–19 vaccine, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

(b) Right To Vote Shall Not Be Impaired.—It shall be unlawful for any State or political subdivision, as such term is used in the Voting Rights Act of 1965 (52 U.S.C. 10301 et seq.), to require or impose a requirement that a voter or voters must present a vaccine passport or otherwise present information regarding their vaccination status in order to exercise the right to vote, including to vote in person, in any election involving any candidate for Federal office.
(c) Rule of construction.—Notwithstanding subsection (a), a public entity shall not be considered in violation of subsection (a) if that public entity requires a qualified individual who has not received a COVID–19 vaccine to engage in physical distancing, wear a mask, or wear personal protective equipment.

(d) Enforcement.—The remedies, procedures, and rights set forth in section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) shall be the remedies, procedures, and rights this title provides to any person alleging discrimination on the basis of status as a qualified individual who has not received a COVID–19 vaccine in violation of this section.

(e) Definitions.—

(1) Qualified individual who has not received a COVID–19 vaccine.—The term “qualified individual who has not received a COVID–19 vaccine” means an individual who—

(A) has voluntarily elected not to receive a COVID–19 vaccine; and

(B) with or without reasonable modifications to rules, policies, or practices, including physical distancing, mask wearing, wearing personal protective equipment, or undergoing a COVID-related symptom check meets the essen-
tial eligibility requirements for the receipt of
services or the participation in programs or ac-
tivities provided by a public entity.

(2) PUBLIC ENTITY.—The term “public entity”
has the meaning given that term in section 201 of
the Americans with Disabilities Act of 1990 (42

SEC. 222. ACCESS TO FEDERAL SERVICES.

(a) FEDERAL SERVICES.—

(1) IN GENERAL.—No otherwise qualified indi-
vidual who has not received a COVID–19 vaccine,
shall, solely by reason of her or his vaccine status,
be excluded from the participation in, be denied the
benefits of, or be subjected to discrimination under
any program or activity receiving Federal financial
assistance or under any program or activity con-
ducted by any Executive agency or by the United
States Postal Service.

(2) REGULATIONS.—The head of each such
agency shall promulgate such regulations as may be
necessary to carry out this section.

(3) PROGRAM OR ACTIVITY.—In this section the
term “program or activity” has the meaning given
that term in section 504 of the Rehabilitation Act of
(b) Petition; Access to Property.—An individual’s right to petition the Federal Government and an individual’s right to access Federal property shall not be affected because the individual is a qualified individual who has not received a COVID–19 vaccine. Proof of COVID–19 vaccination shall not be a requirement for access to Federal property or Federal services, or for access to congressional grounds or services.

(e) Exception Relating to Admission and Departure of Aliens.—

(1) In General.—Notwithstanding any other provision of this Act, the Secretary of Homeland Security may request, require, and collect vaccination records providing evidence of vaccination for COVID–19, SARS–CoV–2, or any variant of COVID–19 or SARS–CoV–2 from any alien (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) seeking admission to the United States or departing the United States, to the extent necessary to ensure public health.

(2) Recordkeeping.—The Secretary of Homeland Security may maintain such evidence of vaccination and any ancillary documentation for a period the Secretary considers necessary.
(3) PRIVACY.—Information collected or maintained under paragraph (1) or (2) may not be transmitted or communicated to any entity or individual other than an employee of the Department of Homeland Security designated by the Secretary of Homeland Security.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to provide an alien a right or an enforceable action relating to the admission of the alien to the United States or authorization to remain in the United States.