

118TH CONGRESS  
1ST SESSION

# S. 181

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

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IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2023

Mr. CRUZ introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## 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 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “No Vaccine Passports Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Severability.

TITLE I—GENERAL PROVISIONS

Subtitle A—Health Information Privacy Protections

Sec. 101. Prohibition on establishment of Federal vaccine passports and tracking of individuals.

Sec. 102. Vaccine status protections under HIPAA privacy regulations.

Subtitle B—Consent to Vaccination

Sec. 111. Vaccinations.

TITLE II—PROHIBITION OF DISCRIMINATION BASED ON  
VACCINATION STATUS

Subtitle A—Nondiscrimination in Employment

Sec. 201. Definitions.

Sec. 202. Discrimination prohibited.

Sec. 203. Defenses.

Sec. 204. Remedies and enforcement.

Subtitle B—Nondiscrimination in Public Accommodation

Sec. 211. Definitions.

Sec. 212. Prohibition of discrimination by places of public accommodation.

Sec. 213. Prohibition of discrimination in specified public transportation services provided by private entities.

Sec. 214. Exemptions for private clubs and religious organizations.

Sec. 215. Enforcement.

Sec. 216. Effective date.

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

Sec. 221. Nondiscrimination by a public entity.

Sec. 222. Access to Federal services.

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

3 (1) In December 2019, reports began circu-  
4 lating that hospitals in Wuhan, China, were seeing  
5 cases of a pneumonia-like respiratory illness of un-  
6 known origins.

7 (2) On December 31, 2019, an automated  
8 translation of a Chinese media report about a novel  
9 respiratory outbreak was posted to ProMED, one of  
10 the largest public emerging disease and outbreak re-

1       porting systems used to promote communication  
2       among infectious disease specialists, including sci-  
3       entists, physicians, veterinarians, epidemiologists,  
4       and public health professionals.

5               (3) The ProMED posting prompted the World  
6       Health Organization (referred to in this section as  
7       “WHO”) to instruct its China Country Office to re-  
8       quest verification of the outbreak from the com-  
9       munist government of the People’s Republic of  
10      China.

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

15              (5) On January 3, 2020, in what is clear con-  
16      duct by the Chinese government to cover up the ori-  
17      gins and dangers posed by the outbreak, Dr. Li  
18      Wenliang, a physician at Wuhan Central Hospital,  
19      was reprimanded by local police in the Public Secu-  
20      rity Bureau for spreading allegedly “false state-  
21      ments” about the outbreak online.

22              (6) On January 3, 2020, the Chinese Center for  
23      Disease Control and Prevention (referred to in this  
24      section as “China CDC”) Director-General Gao Fu  
25      told the United States Centers for Disease Control

1 and Prevention (referred to in this section as  
2 “United States CDC”) Director Robert Redfield  
3 about a pneumonia outbreak in Wuhan, Hubei Prov-  
4 ince, China.

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

14 (8) On January 11, 2020, a team led by Pro-  
15 fessor Yong-Zhen Zhang of Fudan University in  
16 Shanghai posted the genetic sequence of the novel  
17 virus on an open-access platform, sharing it with the  
18 world.

19 (9) On January 14, 2020, the WHO tweeted,  
20 “Preliminary investigations conducted by the Chi-  
21 nese authorities have found no clear evidence of  
22 human-to-human transmission of the novel  
23 coronavirus (2019-nCoV) identified in Wuhan,  
24 China”. The WHO’s assertion has been proven false  
25 and completely contrary to medical science given

1 that there have been nearly 163,000,000 cases of in-  
2 fection worldwide, resulting in more than 3,380,000  
3 deaths.

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

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

10 (12) On January 30, 2020, WHO Director-  
11 General Tedros declared the epidemic a Public  
12 Health Emergency of International Concern, and  
13 President Donald J. Trump announced the forma-  
14 tion of the President’s Coronavirus Task Force. In  
15 a statement from the WHO regarding the second  
16 meeting of its International Health Regulations  
17 (2005) Emergency Committee regarding the out-  
18 break of novel coronavirus (2019–nCoV), the Com-  
19 mittee specifically did “not recommend any travel or  
20 trade restriction based on the current information  
21 available”.

22 (13) On January 31 2020, President Trump  
23 suspended entry into the United States of most for-  
24 eigners who were physically present in mainland  
25 China during the preceding 14-day period, effective

1 February 2, 2020, and Secretary Azar declared a  
2 public health emergency for the United States to aid  
3 response to the novel coronavirus.

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

10 (15) Numerous individuals criticized these trav-  
11 el restrictions. When asked “if you had to, would  
12 you close down the borders?” to stop the spread of  
13 coronavirus, Senator Bernie Sanders said, “no”.  
14 When asked about these travel restrictions, Rep-  
15 resentative Nancy Pelosi stated, “actually tens of  
16 thousands of people were allowed in from China, it  
17 wasn’t as it was described as this great moment”.  
18 WHO Director-General Tedros Adhanom  
19 Ghebreyesus was reported to say that widespread  
20 travel bans and restrictions were not needed to stop  
21 the outbreak and could “have the effect of increas-  
22 ing fear and stigma, with little public health ben-  
23 efit”. Reportedly, Representative Ami Bera stated  
24 that the travel ban “probably doesn’t make sense”  
25 since the outbreak had already spread to several

1 other countries, that such measures were causing an  
2 antagonistic relationship with the Chinese, and such  
3 mandatory quarantines “may be overkill”.

4 (16) Health experts have since noted that the  
5 early United States restrictions imposed on travelers  
6 from China saved American lives. Former United  
7 States CDC director Dr. Tom Frieden noted that  
8 “the travel ban with China made a difference. . . It  
9 resulted in a significant delay in the number of peo-  
10 ple coming in with infection and because of that,  
11 that bought time in the U.S. to better prepare.”.

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

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

22 (19) In a 60 Minutes interview posted on  
23 March 8, 2020, Dr. Anthony Fauci stated that  
24 “right now in the United States, people should not  
25 be walking around with masks . . . there’s no rea-

1 son to be walking around with a mask. When you're  
2 in the middle of an outbreak wearing a mask might  
3 make people feel a little bit better, and it might even  
4 block a droplet, but it's not providing the perfect  
5 protection that people think that it is. And often,  
6 there are unintended consequences, people keep fid-  
7 dling with the masks, and they keep touching their  
8 face. . . . But, when you think masks, you should  
9 think of healthcare providers needing them and peo-  
10 ple who are ill. The people who, when you look at  
11 the films of foreign countries and you see 85 percent  
12 of the people wearing masks, that's fine. That's fine.  
13 I'm not against it. If you want to do it, that's fine  
14 . . . . It could lead to a shortage of masks for the  
15 people who really need it."

16 (20) On May 15, 2020, the Trump administra-  
17 tion announced the establishment of Operation Warp  
18 Speed, a public-private partnership to expedite the  
19 timeline for development, large-scale manufacturing,  
20 and delivery of a safe and effective COVID-19 vac-  
21 cine to the American public. The initial goal of the  
22 project was to develop at least 1 vaccine and begin  
23 administering it to Americans before the end of  
24 2020. As reported on BioCentury, Dr. Anthony  
25 Fauci noted that the fastest a vaccine might be



1 ready for use in an emergency would be 1 year, al-  
2 though the process could take up to 2 years. Before  
3 the Senate on March 3, 2020, Dr. Fauci stated that  
4 the process would likely take at least 1 to 1½ years  
5 to have a vaccine that could be administered to  
6 American persons. Some, such as the analytics firm  
7 Clarivate, concluded that it might take at least 5  
8 years for the leading vaccine candidates, like  
9 Moderna, to complete the development process  
10 through full regulatory approval.

11 (21) Operation Warp Speed and other govern-  
12 ment actions sped COVID–19 vaccine development  
13 by enabling typical vaccine development steps to be  
14 taken simultaneously with manufacturing and dis-  
15 tribution planning. As part of these actions, the  
16 Federal Government made investments in critical  
17 manufacturing capacity, giving pharmaceutical com-  
18 panies confidence that if they invested in developing  
19 a vaccine, once the vaccine received authorization  
20 from the Food and Drug Administration, these com-  
21 panies would be able to immediately begin distrib-  
22 uting the vaccine.

23 (22) On July 14, 2020, the United States CDC  
24 issued stronger recommendations to wear masks as  
25 a strategy for preventing the spread of COVID–19.

1 United States CDC Director Robert Redfield, in a  
2 news release from the agency, identified masks as  
3 “one of the most powerful weapons we have to slow  
4 and stop the spread of the virus”.

5 (23) On December 11, 2020, the Food and  
6 Drug Administration issued the first emergency use  
7 authorization (referred to in this section as “EUA”)  
8 for a vaccine for the prevention of COVID–19 in in-  
9 dividuals 16 years of age and older. The EUA al-  
10 lowed the Pfizer-BioNTech COVID–19 Vaccine to be  
11 distributed in the United States.

12 (24) By June 2022, subsequent modifications  
13 to the EUA by the Food and Drug Administration  
14 expanded the Pfizer-BioNTech COVID–19 vaccine  
15 application to include eligibility for individuals from  
16 6 months of age and older.

17 (25) On December 18, 2020, the Food and  
18 Drug Administration issued an EUA for the second  
19 vaccine for the prevention of COVID–19 in individ-  
20 uals 16 years of age and older. The EUA allowed  
21 the Moderna COVID–19 Vaccine to be distributed in  
22 the United States for use in individuals 18 years of  
23 age and older.

24 (26) By June 2022, subsequent modifications  
25 to the EUA by the Food and Drug Administration

1 expanded the Moderna COVID–19 vaccine to include  
2 eligibility for individuals from 6 months of age and  
3 above.

4 (27) On February 27, 2021, the Food and  
5 Drug Administration issued an EUA for the third  
6 vaccine for the prevention of COVID–19. The EUA  
7 allowed the Janssen COVID–19 vaccine to be dis-  
8 tributed in the United States for use in individuals  
9 18 years of age and older.

10 (28) On July 13, 2022, the Food and Drug Ad-  
11 ministration issued an EUA for the fourth vaccine  
12 for the prevention of COVID–19 in individuals 18  
13 and older. The EUA was further expanded to in-  
14 clude individuals 12 years of age and older. The  
15 EUA allowed the Novavax COVID–19 Vaccine,  
16 Adjuvanted to be distributed in the United States  
17 for use in individuals 12 years and older.

18 (29) On August 23, 2021, the Food and Drug  
19 Administration approved the first COVID–19 vac-  
20 cine, Pfizer-BioNTech’s Comirnaty (COVID–19 vac-  
21 cine, mRNA) for individuals 16 years of age and  
22 older.

23 (30) On January 31, 2022, the Food and Drug  
24 Administration approved the second COVID–19 vac-

1 cine. The Moderna COVID–19 vaccine “Spikevax” is  
2 approved for individuals 18 years of age and older.

3 (31) Because of this public-private partnership  
4 and the funding and support from Congress, mul-  
5 tiple COVID–19 vaccines have been developed and  
6 manufactured and as of January 19, 2023, approxi-  
7 mately 667,815,331 vaccine doses had been adminis-  
8 tered in the United States.

9 (32) Despite the successful development, roll-  
10 out, and uptake of the COVID–19 vaccines, it is  
11 now known that the vaccines do not fully prevent in-  
12 fection from the SARS–CoV–2 virus.

13 (33) The emergence of variants of SARS–CoV–  
14 2 has resulted in the development of new COVID–  
15 19 vaccines and booster shots.

16 (34) According to the Food and Drug Adminis-  
17 tration fact sheets on COVID–19 vaccines, there are  
18 certain populations for whom existing COVID–19  
19 vaccines are not indicated or authorized or for whom  
20 there is insufficient data to inform vaccine-related  
21 risks including—

22 (A) people who have had a severe allergic  
23 reaction to a previous dose of one of the vac-  
24 cines or has a severe allergy to any of the vac-  
25 cine components; and

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

5 (35) Because of potential risks that the vaccine  
6 poses to certain people, it is important that every  
7 patient is able to consult his or her doctor to deter-  
8 mine whether one of the COVID–19 vaccines and  
9 booster shots is appropriate for that patient.

10 (36) Consistent with fundamental human  
11 rights, and medical and legal ethics and proper  
12 standards of medical care, every American has the  
13 right to “informed consent” with respect to medical  
14 treatment, meaning that he or she has a right to be  
15 fully informed about the nature of his or her health  
16 care and to participate in and voluntarily make deci-  
17 sions related to his or her care. In addition, every  
18 patient has a right to medical privacy to expect that  
19 the decisions and nature of care will be kept con-  
20 fidential by his or her health care provider and any-  
21 one who has access to the individual’s medical  
22 records, including vaccination records.

23 (37) At various times in history, governments  
24 and medical professionals have violated these and  
25 other inherent rights, including by coercing patients,

1 failing to properly inform patients of, or even inten-  
2 tionally being deceptive with patients about, their  
3 rights and the risks inherent with various medical  
4 procedures, experiments, and studies, including the  
5 Tuskegee syphilis experiments, forced sterilization,  
6 lobotomy procedures, electro-shock therapy, certain  
7 psychological studies, collection and utilization of in-  
8 dividuals' cells and parts of their body, or from fetal  
9 tissue of a patient's offspring, without knowledge or  
10 consent, and eugenics laws.

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

15 (39) Criminal battery stemming from violations  
16 of medical ethics and informed consent standards  
17 have led to a significant degree of distrust of the  
18 government, public health officials, and medical pro-  
19 fessionals by certain groups and communities includ-  
20 ing among the most vulnerable populations such as  
21 ethnic minorities, immigrants, economically dis-  
22 advantaged, unmarried mothers, people with disabili-  
23 ties, and individuals with mental illnesses.

24 (40) On March 19, 2021, the WHO released  
25 draft recommendations for a smart vaccine certifi-

1       cate in what amounts to a form of a “vaccine pass-  
2       port” that would, per WHO’s “Smart Vaccination  
3       Certificate Working Group”, “support COVID–19  
4       vaccine delivery and monitoring” and to serve “cur-  
5       rent and future requirements, toward the dual pur-  
6       poses of (1) supporting continuity of care; and (2)  
7       cross-border uses”.

8               (41) In July 2021, the European Commission  
9       adopted the EU Digital COVID Certificate  
10       (EUDCC), a COVID–19 vaccine passport.

11              (42) In April 2021, the State of New York  
12       launched the first COVID–19 vaccine passport in  
13       the United States, known as the Excelsior Pass.

14              (43) The White House, while saying the  
15       COVID–19 Task Force would not create a vaccine  
16       passport, engaged in a multi-agency coordination ef-  
17       fort led by the Office of the National Coordinator  
18       for Health Information Technology to develop cri-  
19       teria and principles for a vaccine passport created by  
20       the private sector.

21              (44) During a March 2, 2021, virtual meeting  
22       lead by the Federal Health IT Coordinating Council  
23       on behalf of the Biden Administration, a slide pres-  
24       entation included the following: “Proof of individual  
25       COVID-related health status is likely to be an im-

1       portant component of pandemic response, proof of  
2       immunization will likely become a major, if not the  
3       primary, form of health status validation,” and a  
4       “unified Federal approach [is] required to ensure  
5       Federal activities are working toward the same com-  
6       mon goals for vaccine [passports].” Additionally, the  
7       presentation suggested the Biden Administration ex-  
8       pects that “Federal entities” would “likely require  
9       vaccine verification for a variety of purposes” and  
10      that the “Federal government will inevitably be in-  
11      volved with vaccine credential solutions. . . .”

12           (45) Despite previous reassurances to not pur-  
13      sue COVID–19 vaccine mandates or passports, the  
14      Biden Administration has issued a number of vac-  
15      cine mandates on millions of Americans through ex-  
16      ecutive orders, memoranda, and Federal rulemaking.

17           (A) On August 24, 2021, the Secretary of  
18      Defense issued a memorandum requiring all  
19      Department of Defense Service Members to be  
20      vaccinated against COVID–19 as a condition of  
21      remaining in the service.

22           (B) On September 9, 2021, the Biden Ad-  
23      ministration issued an executive order man-  
24      dating all employees of Federal contractors be



1 vaccinated against COVID–19 as a condition of  
2 employment.

3 (C) On September 14, 2021, the Biden  
4 Administration issued an executive order man-  
5 dating all Federal employees be vaccinated  
6 against COVID–19 as a condition of employ-  
7 ment.

8 (D) On November 4, 2021, the Centers for  
9 Medicare & Medicaid Services issued an interim  
10 final rule requiring employees of Medicare and  
11 Medicaid certified providers and suppliers be  
12 vaccinated against COVID–19 as a condition of  
13 employment.

14 (E) On November 4, 2021, the Occupa-  
15 tional Safety and Health Administration issued  
16 an emergency temporary standard requiring  
17 private employers with 100 or more employees  
18 to either require employees to receive a  
19 COVID–19 vaccine or to require employees to  
20 provide regular proof of a negative COVID–19  
21 test.

22 (46) A number of cities in the United States  
23 implemented vaccine passports requiring individuals  
24 to show proof of vaccination to enter various estab-  
25 lishments.

1           (A) On August 16, 2021, the city of New  
2 Orleans implemented the requirement of a  
3 COVID–19 vaccine or a negative test in order  
4 to enter indoor establishments and venues.

5           (B) On August 20, 2021, the city of San  
6 Francisco began to require proof of vaccination  
7 against COVID–19 in order to enter indoor es-  
8 tablishments and venues.

9           (C) On September 13, 2021, the city of  
10 New York began to require its Excelsior Pass  
11 or Key-to-NYC COVID–19 vaccine passport in  
12 order to enter indoor establishments and  
13 venues.

14           (D) On October 1, 2021, the city of Los  
15 Angeles began to require proof of a COVID–19  
16 vaccine in order to enter indoor establishments  
17 and venues.

18           (E) On October 25, 2021, the city of Se-  
19 attle began to require proof of vaccination  
20 against COVID–19 or a negative test in order  
21 to enter indoor establishments and venues.

22           (F) In January 2022, the cities of Boston,  
23 Chicago, Philadelphia, Minneapolis, and St.  
24 Paul began to require proof of a COVID–19

1 vaccine in order to enter indoor establishments  
2 and venues.

3 (G) On February 15, 2022, Washington,  
4 DC, began to require proof of vaccination  
5 against COVID–19 in order to enter indoor es-  
6 tablishments and venues.

7 (47) Throughout 2021 and 2022, a large num-  
8 ber of private employers imposed a COVID–19 vac-  
9 cine mandate on employees as a condition of employ-  
10 ment. This has resulted in widespread discrimination  
11 based on vaccination status and loss of employment  
12 and employment opportunities.

13 (48) The development, implementation, and uti-  
14 lization of vaccine passports, whether by Federal or  
15 State government, or the private sector, has led to  
16 significant misuse, abuse, and discrimination against  
17 the people of the United States. The use of such  
18 passports led to the denial of constitutionally pro-  
19 tected freedoms, such as freedom of association and  
20 freedom of movement and allowed the government  
21 and corporations to track people’s health status on  
22 a large-scale basis.

23 (49) The widespread utilization of vaccine pass-  
24 ports has led to discrimination by businesses that  
25 provide public accommodations requiring a customer

1 to demonstrate his or her health status, through the  
2 presentment of a vaccine passport or other “papers”  
3 or by requiring that the customer disclose his or her  
4 protected health information, before the business  
5 agrees to serve or otherwise do business with such  
6 individual, meaning the denial of service in such  
7 cases could be based on an individual’s disability,  
8 health status, or familial status.

9 (50) Despite the use of vaccine passports and  
10 vaccine mandates leading to a clear violation of con-  
11 stitutional rights, there currently exists no clear reg-  
12 ulatory framework to fully protect the privacy of  
13 United States citizens and United States nationals  
14 with respect to their vaccination records and nega-  
15 tive COVID–19 test results.

16 (51) The widespread acceptance and implemen-  
17 tation of vaccine passports has also led to employ-  
18 ment discrimination, where employers have taken  
19 adverse employment actions against employees who  
20 are not vaccinated because of an underlying health  
21 condition and without regard to the Americans with  
22 Disabilities Act of 1990 (42 U.S.C. 12101 et seq.),  
23 which requires an interactive process whereby the  
24 employer follows the law to assess if the employee

1 can and should be reasonably accommodated under  
2 such Act.

3 (52) Given that COVID–19 vaccines do not pre-  
4 vent the transmission of the SARS–CoV–2 virus, the  
5 implementation and widespread utilization of vaccine  
6 passports has led and will lead to the refusal to pro-  
7 vide services to unvaccinated persons.

8 (53) The denial of public services and public ac-  
9 commodations, as well as adverse employment ac-  
10 tions, based on COVID–19 vaccination status, lack  
11 of or refusal to present a vaccine passport, refusal  
12 to get vaccinated, or requiring an individual to ex-  
13 plain the underlying reason why they are not vac-  
14 cinated, could constitute unlawful discrimination, in-  
15 cluding as to sex, age, familial status, disability, or  
16 based on genetic or other health condition.

17 (54) Any United States person that requests  
18 the vaccine records of a United States individual, in-  
19 cluding data such as a copy or other digital record  
20 of a vaccine passport or similar proof of vaccination,  
21 should be regarded as having collected “protected  
22 health information” and should be regarded as a  
23 “covered entity” as defined in the privacy regula-  
24 tions promulgated under section 264(c) of the

1 Health Insurance Portability and Accountability Act  
2 of 1996 (42 U.S.C. 1320d–2 note).

3 (55) The policy of the United States is to rec-  
4 ognize, defend, and protect the inherent rights of the  
5 individual, including the right to privacy, the right  
6 of liberty, the right to be secure in one’s person, the  
7 right of the individual to be informed about any  
8 medical procedures, treatment, or vaccination, and  
9 the right of the individual to provide or withhold  
10 consent to such procedures, treatment, or vaccina-  
11 tion.

12 (56) Congress recognizes that special vigilance  
13 is required, especially in times of crisis or emergency  
14 to ensure that government agencies do not try to  
15 take advantage of, manipulate, or inflame public  
16 fear, stoke hatred of minority groups, or increase in-  
17 tolerance toward the diversity that builds our Na-  
18 tion.

19 (57) Congress finds that there is a clear need  
20 for the Federal Government to take specific action  
21 to restore public trust by protecting the privacy and  
22 voluntary informed consent rights of patients specifi-  
23 cally regarding vaccinations and an individual’s vac-  
24 cination records.

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

10 **SEC. 3. SEVERABILITY.**

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

19           (b) EFFECT OF PARTIAL INVALIDATION, REPEAL, OR  
20           AMENDMENT.—The invalidation, repeal, or amendment of  
21           any part of this Act, or amendment made by this Act,  
22           does not release or extinguish any penalty, forfeiture, or  
23           liability incurred or right accruing or accrued under this  
24           Act (or amendment), unless the invalidation, repeal, or  
25           amendment so provides expressly. This Act, and amend-

1 ments made by this Act, shall be treated as remaining in  
2 force for the purpose of sustaining any proper action or  
3 prosecution for the enforcement of the right, penalty, for-  
4 feiture, or liability pursuant to the previous sentence.

## 5 **TITLE I—GENERAL PROVISIONS**

### 6 **Subtitle A—Health Information**

#### 7 **Privacy Protections**

##### 8 **SEC. 101. PROHIBITION ON ESTABLISHMENT OF FEDERAL** 9 **VACCINE PASSPORTS AND TRACKING OF IN-** 10 **DIVIDUALS.**

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

23 (b) **PERSONAL PRIVACY.**—To the extent any Federal  
24 department or agency has received, obtained, collected, ag-  
25 gregated, stored, or is otherwise in possession of any data



1 or records from officials, including public health officials,  
2 in any State, the District of Columbia, or any territory,  
3 or any third party who administered or has information  
4 related to the administration of any COVID–19 vaccina-  
5 tions, including health care providers and insurers, such  
6 data and records about any individuals’ vaccination status  
7 shall be destroyed by the Federal department or agency  
8 and, if in digital form, that data record shall be deleted  
9 in its entirety within 30 days of the enactment of this Act.

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

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

24 (e) PROHIBITION ON FEDERAL ISSUANCE OR VAC-  
25 CINE PASSPORT OR SIMILAR DOCUMENTATION AND PRO-

1 HIBITION ON VACCINATION REQUIREMENT TO ENTER  
2 FEDERAL PROPERTY OR SERVICES.—

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

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

16          (f) EXCEPTIONS.—

17               (1) DEIDENTIFIED OR ANONYMIZED INFORMA-  
18               TION FOR CERTAIN PURPOSES.—The prohibition de-  
19               scribed in subsection (a) shall not apply to the ag-  
20               gregation and sharing of information that has been  
21               deidentified or anonymized if such information is  
22               used for purposes of Federal, State, or local public  
23               health reporting or academic studies, provided that  
24               the recipient of such information does not have the  
25               capability to reconstruct the data in any way that

1 would allow for the determination of the vaccination  
2 status of any individual.

3 (2) LIMITED USE OF INFORMATION WITH RE-  
4 SPECT TO FEDERAL EMPLOYEES.—The prohibition  
5 described in subsection (a) and the requirement de-  
6 scribed in subsection (b) shall not apply to the pos-  
7 session by a Federal department or agency of  
8 COVID–19 vaccination data or records pertaining to  
9 any employee of such department or agency where  
10 such data or records will be used solely to determine  
11 if such employee would be eligible to gain admission  
12 to a foreign country during international travel in  
13 furtherance of the employee’s official duties.

14 **SEC. 102. VACCINE STATUS PROTECTIONS UNDER HIPAA**  
15 **PRIVACY REGULATIONS.**

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

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

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

5           (3) With respect to any individual who shares  
6 their vaccine status with any covered entity, the cov-  
7 ered entity shall comply with any request from such  
8 individual to—

9                   (A) delete all protected health information  
10 that identifies the individual’s vaccination sta-  
11 tus, including in relation to any records shared  
12 with the covered entities’ business associates, in  
13 all active and inactive databases; and

14                   (B) provide to such individual written con-  
15 firmation of such deletion.

16       (b) DEFINITIONS.—In this section, the terms “busi-  
17 ness associate”, “covered entity”, “protected health infor-  
18 mation” have the meanings given such terms in section  
19 160.103 of title 21, Code of Federal Regulations (or any  
20 successor regulations).

## 21 **Subtitle B—Consent to Vaccination**

### 22 **SEC. 111. VACCINATIONS.**

23       (a) IN GENERAL.—Part I of title 18, United States  
24 Code, is amended by inserting after chapter 117 the fol-  
25 lowing:

1           **“CHAPTER 117A—VACCINATIONS**2   **“§ 2431. Vaccinations**

3           “(a) REQUIREMENTS.—

4                   “(1) IN GENERAL.—Except as provided in para-  
5 graph (2), it shall be unlawful to—6                           “(A) require any United States person to  
7 receive a vaccine that has only received author-  
8 ization by the Food and Drug Administration  
9 through an emergency use authorization pursu-  
10 ant to section 564 of the Federal Food, Drug,  
11 and Cosmetic Act (21 U.S.C. 360bbb–3), or  
12 that has received such authorization prior to re-  
13 ceiving full approval or licensure under section  
14 505 of the Federal Food, Drug, and Cosmetic  
15 Act (21 U.S.C. 355) or section 351 of the Pub-  
16 lic Health Service Act (42 U.S.C. 262); or17                           “(B) vaccinate with a vaccine that has only  
18 received authorization by the Food and Drug  
19 Administration through such an emergency use  
20 authorization, or that has received such author-  
21 ization prior to receiving such full approval or  
22 licensure—

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

24                           or

1                   “(ii) an individual that lacks the ca-  
2                   pacity to exercise the right to consent to be  
3                   vaccinated.

4                   “(2) EXCEPTIONS.—Paragraph (1) shall not  
5                   apply if the individual, or if the individual is a minor  
6                   or is otherwise unable to consent, a parent, guard-  
7                   ian, conservator, or attorney-in-fact of the indi-  
8                   vidual, provides consent to be vaccinated.

9                   “(3) SUNSET.—This subsection is effective be-  
10                  ginning on the date of enactment of this section and  
11                  ending on the date that is 5 years after that date.

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

21                  “(c) PROTECTING PRIVACY.—

22                  “(1) IN GENERAL.—Except as provided in sub-  
23                  paragraph (B), it shall be unlawful for any person  
24                  to publicly disclose information about the COVID–  
25                  19 vaccination status of an individual without the

1 express consent of the individual if the individual  
2 provided the information to the person—

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

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

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

11 “(D) as a patient in order to obtain med-  
12 ical care or health-related services from any  
13 health care provider; or

14 “(E) the user of any technology applica-  
15 tion, platform, or service.

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

20 “(A) the individual agrees to the cir-  
21 cumstances of disclosure in writing; and

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

24 “(3) EXCEPTION.—Paragraph (1) shall not  
25 apply if the parent or guardian of the individual pro-

1       vides consent to the disclosure described in that sub-  
2       paragraph.

3       “(d) CRIMINAL PENALTIES.—Whoever knowingly  
4       violates subsection (a) or (c) shall be imprisoned not more  
5       than 1 year, fined in accordance with this title, or both.

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

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

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

**“117A. Vaccinations ..... 2431”.**



1 **TITLE II—PROHIBITION OF DIS-**  
2 **CRIMINATION BASED ON VAC-**  
3 **CINATION STATUS**

4 **Subtitle A—Nondiscrimination in**  
5 **Employment**

6 **SEC. 201. DEFINITIONS.**

7 In this section:

8 (1) **ADA TERMS.**—The terms “direct threat”  
9 and “undue hardship” have the meaning given those  
10 terms in section 101 of the Americans with Disabil-  
11 ities Act of 1990 (42 U.S.C. 12111).

12 (2) **COVERED ENTITY.**—The term “covered en-  
13 tity”—

14 (A) has the meaning given the term “re-  
15 spondent” in section 701(n) of the Civil Rights  
16 Act of 1964 (42 U.S.C. 2000e(n)); and

17 (B) includes—

18 (i) an employer, which means a per-  
19 son engaged in industry affecting com-  
20 merce who has 15 or more employees as  
21 defined in section 701(b) of title VII of the  
22 Civil Rights Act of 1964 (42 U.S.C.  
23 2000e(b)); and

1 (ii) an entity to which section 717(a)  
2 of the Civil Rights Act of 1964 (42 U.S.C.  
3 2000e-16(a)) applies.

4 (3) EMPLOYEE.—The term “employee”  
5 means—

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

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

12 (4) PERSON; COMMERCE; INDUSTRY AFFECTING  
13 COMMERCE.—The terms “person”, “commerce”, and  
14 “industry affecting commerce” shall have the same  
15 meaning given such terms in section 701 of the Civil  
16 Rights Act of 1964 (42 U.S.C. 2000e).

17 (5) QUALIFIED EMPLOYEE.—The term “quali-  
18 fied employee” means an employee or applicant who,  
19 with or without reasonable accommodation, can per-  
20 form the essential functions of the employment posi-  
21 tion. For the purposes of this title, consideration  
22 shall be given to the employer’s judgment as to what  
23 functions of a job are essential, and if an employer  
24 has prepared a written description before advertising  
25 or interviewing applicants for the job, this descrip-

1           tion shall be considered evidence of the essential  
2           functions of the job.

3           (6) REASONABLE ACCOMMODATION.—The term  
4           “reasonable accommodation” may include—

5                   (A) job restructuring, modified work sched-  
6                   ules, telework, reassignment to a vacant posi-  
7                   tion, or wearing a mask or personal protective  
8                   equipment; and

9                   (B) physical distancing for an  
10                  unvaccinated individual or an unvaccinated in-  
11                  dividual wearing a mask or personal protective  
12                  equipment, to the extent that the unvaccinated  
13                  individual interacts with individuals who are  
14                  vulnerable to COVID–19 and unvaccinated for  
15                  COVID–19.

16          (7) VACCINATION STATUS.—The term “vaccina-  
17          tion status” means—

18                   (A) an individual’s status based on the vol-  
19                   untary election to receive or not to receive a  
20                   COVID–19 vaccine; and

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

1           that would demonstrate whether an individual  
2           has been vaccinated against COVID–19.

3 **SEC. 202. DISCRIMINATION PROHIBITED.**

4           (a) GENERAL RULE.—No covered entity shall dis-  
5 criminate against a qualified employee on the basis of vac-  
6 cination status, or the qualified employee’s unwillingness  
7 or inability to present a vaccine passport or other proof  
8 of having a COVID–19 vaccine, in regard to job applica-  
9 tion procedures, the hiring, advancement, or discharge of  
10 employees, employee compensation, job training, and other  
11 terms, conditions, and privileges of employment.

12           (b) CONSTRUCTION.—

13           (1) IN GENERAL.—As used in subsection (a),  
14 the term “discriminate against a qualified employee  
15 on the basis of vaccination status” includes—

16           (A) limiting, segregating, or classifying an  
17 employee in a way that adversely affects the op-  
18 portunities or status of such employee because  
19 of the vaccination status of such employee;

20           (B) participating in a contractual or other  
21 arrangement or relationship that has the effect  
22 of subjecting a covered entity’s qualified em-  
23 ployee based on vaccination status to the dis-  
24 crimination prohibited by this title (such rela-  
25 tionship includes a relationship with an employ-

1           ment or referral agency, labor union, an organi-  
2           zation providing fringe benefits to an employee  
3           of the covered entity, or an organization pro-  
4           viding training and apprenticeship programs);

5           (C) utilizing standards, criteria, or meth-  
6           ods of administration—

7                   (i) that have the effect of discrimina-  
8                   tion on the basis of vaccination status; or

9                   (ii) that perpetuate the discrimination  
10                  of others who are subject to common ad-  
11                  ministrative control;

12           (D) excluding or otherwise denying equal  
13           benefits to a qualified employee because of the  
14           known vaccination status of an individual with  
15           whom the qualified employee is known to have  
16           a relationship or association;

17           (E)(i) not making reasonable accommoda-  
18           tions based on vaccination status for an other-  
19           wise qualified employee, unless such covered en-  
20           tity can demonstrate that the accommodation  
21           would impose an undue hardship on the oper-  
22           ation of the business of such covered entity; or

23                   (ii) denying employment opportunities to  
24                   an employee who is an otherwise qualified em-  
25                   ployee based on vaccination status, if such de-

1            nial is based on the need of such covered entity  
2            to make reasonable accommodation based on  
3            the vaccination status of the qualified employee;  
4            and

5            (F) using qualification standards, employ-  
6            ment tests, or other selection criteria that  
7            screen out or tend to screen out an individual  
8            or a class of individuals based on vaccination  
9            status unless the standard, test or other selec-  
10           tion criteria, as used by the covered entity, is  
11           shown to be job related for the position in ques-  
12           tion and is consistent with business necessity.

13           (2) EXCLUSIONS.—Notwithstanding any other  
14           provision of this section, the term “discriminate  
15           against a qualified individual on the basis of vac-  
16           cination status” does not include—

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

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

24           (C) conducting any symptom check as de-  
25           scribed in subsection (d)(3).

1 (c) COVERED ENTITIES IN FOREIGN COUNTRIES.—

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

8 (d) MEDICAL EXAMINATIONS AND INQUIRIES.—

9 (1) IN GENERAL.—Consistent with paragraph  
10 (2), the prohibition against discrimination as re-  
11 ferred to in subsection (a) shall include medical ex-  
12 aminations designed to reveal a qualified employee's  
13 vaccination status and inquiries about a qualified  
14 employee's vaccination status or reasons for choos-  
15 ing not to receive a COVID–19 vaccine.

16 (2) PROHIBITED EXAMINATIONS AND INQUIR-  
17 IES.—A covered entity shall not require a medical  
18 examination designed to reveal a qualified employ-  
19 ee's vaccination status and shall not make inquiries  
20 of an employee as to the vaccination status of the  
21 employee or reasons for choosing not to receive a  
22 COVID–19 vaccine unless such examination or in-  
23 quiry is shown to be job related and consistent with  
24 business necessity.

1           (3) SYMPTOM CHECKS PERMITTED.—Notwith-  
2 standing any other provision of this title, a covered  
3 entity may implement basic health screenings that  
4 ask individuals if they have symptoms associated  
5 with COVID–19 as long as the covered entity does  
6 not discriminate against a qualified employee, as de-  
7 scribed in subsection (a), based on those symptoms,  
8 provided that the covered entity does not discrimi-  
9 nate on the basis of vaccination status when taking  
10 any action in response to any symptom check.

11 **SEC. 203. DEFENSES.**

12           (a) IN GENERAL.—It may be a defense to a charge  
13 of discrimination under this title that an alleged applica-  
14 tion of qualification standards, tests, or selection criteria  
15 that screen out or tend to screen out or otherwise deny  
16 a job or benefit to a qualified employee based on vaccina-  
17 tion status has been shown to be job related and consistent  
18 with business necessity, and such performance cannot be  
19 accomplished by reasonable accommodation, as required  
20 under this title.

21           (b) RELIGIOUS ENTITIES.—

22           (1) IN GENERAL.—This title shall not prohibit  
23 a religious corporation, association, educational in-  
24 stitution, or society from giving preference in em-  
25 ployment to individuals of a particular religion to



1 perform work connected with the carrying on by  
2 such corporation, association, educational institu-  
3 tion, or society of its activities.

4 (2) RELIGIOUS TENETS REQUIREMENT.—Under  
5 this title, a religious organization may require that  
6 all applicants and employees conform to the religious  
7 tenets of such organization.

8 **SEC. 204. REMEDIES AND ENFORCEMENT.**

9 (a) EMPLOYEES COVERED BY TITLE VII OF THE  
10 CIVIL RIGHTS ACT OF 1964.—

11 (1) IN GENERAL.—The powers, remedies, and  
12 procedures provided in sections 705, 706, 707, 709,  
13 710, and 711 of the Civil Rights Act of 1964 (42  
14 U.S.C. 2000e–4 et seq.) to the Commission, the At-  
15 torney General, or any person alleging a violation of  
16 title VII of such Act (42 U.S.C. 2000e et seq.) shall  
17 be the powers, remedies, and procedures this Act  
18 provides to the Commission, the Attorney General,  
19 or any person, respectively, alleging an unlawful em-  
20 ployment practice in violation of this title against an  
21 employee described in section 201(3)(A) except as  
22 provided in paragraphs (2) and (3) of this sub-  
23 section.

24 (2) COSTS AND FEES.—The powers, remedies,  
25 and procedures provided in subsections (b) and (c)

1 of section 722 of the Revised Statutes (42 U.S.C.  
2 1988) shall be the powers, remedies, and procedures  
3 this Act provides to the Board or any person alleg-  
4 ing such practice.

5 (3) DAMAGES.—The powers, remedies, and pro-  
6 cedures provided in section 1977A of the Revised  
7 Statutes (42 U.S.C. 1981a), including the limita-  
8 tions contained in subsection (b)(3) of such section  
9 1977A, shall be the powers, remedies, and proce-  
10 dures this title provides to the Board or any person  
11 alleging such practice (not an employment practice  
12 specifically excluded from coverage under section  
13 1977A(a)(1) of the Revised Statutes).

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

16 (1) IN GENERAL.—The powers, remedies, and  
17 procedures provided in section 717 of the Civil  
18 Rights Act of 1964 (42 U.S.C. 2000e–16) to the  
19 Commission, the Attorney General, the Librarian of  
20 Congress, or any person alleging a violation of that  
21 section shall be the powers, remedies, and proce-  
22 dures this title provides to the Commission, the At-  
23 torney General, the Librarian of Congress, or any  
24 person, respectively, alleging an unlawful employ-  
25 ment practice in violation of this title against an em-

1        ployee described in section 201(3)(B), except as pro-  
2        vided in paragraphs (2) and (3) of this subsection.

3            (2) COSTS AND FEES.—The powers, remedies,  
4        and procedures provided in subsections (b) and (c)  
5        of section 722 of the Revised Statutes (42 U.S.C.  
6        1988) shall be the powers, remedies, and procedures  
7        this Act provides to the Commission, the Attorney  
8        General, the Librarian of Congress, or any person  
9        alleging such practice.

10          (3) DAMAGES.—The powers, remedies, and pro-  
11        cedures provided in section 1977A of the Revised  
12        Statutes (42 U.S.C. 1981a), including the limita-  
13        tions contained in subsection (b)(3) of such section  
14        1977A, shall be the powers, remedies, and proce-  
15        dures this title provides to the Commission, the At-  
16        torney General, the Librarian of Congress, or any  
17        person alleging such practice (not an employment  
18        practice specifically excluded from coverage under  
19        section 1977A(a)(1) of the Revised Statutes).

20          (c) PROHIBITION AGAINST RETALIATION.—

21            (1) IN GENERAL.—No person shall discriminate  
22        against any employee because such employee has op-  
23        posed any act or practice made unlawful by this title  
24        or because such employee made a charge, testified,

1       assisted, or participated in any manner in an inves-  
2       tigation, proceeding, or hearing under this title.

3           (2) PROHIBITION AGAINST COERCION.—It shall  
4       be unlawful to coerce, intimidate, threaten, or inter-  
5       fere with any individual in the exercise or enjoyment  
6       of, or on account of such individual having exercised  
7       or enjoyed, or on account of such individual having  
8       aided or encouraged any other individual in the exer-  
9       cise or enjoyment of, any right granted or protected  
10      by this title.

11          (3) REMEDY.—The remedies and procedures  
12      otherwise provided for under this section shall be  
13      available to aggrieved individuals with respect to vio-  
14      lations of this subsection.

15          (d) LIMITATION.—Notwithstanding subsections  
16      (a)(3) and (b)(3), if an unlawful employment practice in-  
17      volves the provision of a reasonable accommodation pursu-  
18      ant to this title or regulations implementing this title,  
19      damages may not be awarded under section 1977A of the  
20      Revised Statutes (42 U.S.C. 1981a) if the covered entity  
21      demonstrates good faith efforts, in consultation with the  
22      qualified employee, to identify and make a reasonable ac-  
23      commodation that would provide such employee with an  
24      equally effective opportunity and would not cause an  
25      undue hardship on the operation of the covered entity.

1     **Subtitle B—Nondiscrimination in**  
2             **Public Accommodation**

3     **SEC. 211. DEFINITIONS.**

4         In this subtitle:

5             (1) ADA TERMS.—The terms “commerce”,  
6             “commercial facilities”, “private entity”, and “public  
7             accommodation” have the meanings given those  
8             terms in section 301 of the Americans with Disabil-  
9             ities Act of 1990 (42 U.S.C. 12181).

10            (2) INDIVIDUAL WHO HAS NOT RECEIVED A  
11            COVID-19 VACCINE.—The term “individual who has  
12            not received a COVID-19 vaccine” means an indi-  
13            vidual who has not received a COVID-19 vaccine or  
14            who does not have or cannot produce proof of having  
15            such a vaccine.

16            (3) VACCINATION STATUS.—The term “vaccina-  
17            tion status” means—

18                 (A) an individual’s status based on the vol-  
19                 untary election to receive or not to receive a  
20                 COVID-19 vaccine; and

21                 (B) regardless of whether someone has or  
22                 has not been vaccinated against COVID-19, an  
23                 individual’s status with respect to having or  
24                 producing proof of such vaccination in the form  
25                 of a vaccine passport or other medical records

1           that would demonstrate whether an individual  
2           has been vaccinated against COVID–19.

3 **SEC. 212. PROHIBITION OF DISCRIMINATION BY PLACES OF**  
4 **PUBLIC ACCOMMODATION.**

5       (a) GENERAL RULE.—Subject to the provisions of  
6 this subtitle, no individual shall be discriminated against  
7 on the basis of vaccination status, or the individual’s un-  
8 willingness or inability to present a vaccine passport or  
9 other proof of having a COVID–19 vaccine, in the full and  
10 equal enjoyment of the goods, services, facilities, privi-  
11 leges, advantages, or accommodations of any place of pub-  
12 lic accommodation by any person who owns, leases (or  
13 leases to), or operates a place of public accommodation.

14       (b) CONSTRUCTION.—

15           (1) GENERAL PROHIBITION.—

16               (A) ACTIVITIES.—

17                   (i) DENIAL OF PARTICIPATION.—It  
18                   shall be discriminatory to subject an indi-  
19                   vidual or class of individuals on the basis  
20                   of the vaccination status of such individual  
21                   or class of individuals, directly, or through  
22                   contractual, licensing, or other arrange-  
23                   ments, to a denial of the opportunity of the  
24                   individual or class to participate in or ben-  
25                   efit from the goods, services, facilities,

1 privileges, advantages, or accommodations  
2 of an entity.

3 (ii) PARTICIPATION IN UNEQUAL BEN-  
4 EFIT.—It shall be discriminatory to afford  
5 an individual or class of individuals, on the  
6 basis of vaccination status of such indi-  
7 vidual or class of individuals, directly, or  
8 through contractual, licensing, or other ar-  
9 rangements with the opportunity to partici-  
10 pate in or benefit from a good, service, fa-  
11 cility, privilege, advantage, or accommoda-  
12 tion that is not substantially equal to that  
13 afforded to other individuals.

14 (iii) SEPARATE BENEFIT.—It shall be  
15 discriminatory to provide an individual or  
16 class of individuals, on the basis of vac-  
17 cination status of such individual or class  
18 of individuals, directly, or through contrac-  
19 tual, licensing, or other arrangements with  
20 a good, service, facility, privilege, advan-  
21 tage, or accommodation that is different or  
22 separate from that provided to other indi-  
23 viduals, unless such action is necessary to  
24 provide the individual or class of individ-  
25 uals with a good, service, facility, privilege,

1           advantage, or accommodation, or other op-  
2           portunity that is as effective as that pro-  
3           vided to others.

4           (iv) INDIVIDUAL OR CLASS OF INDI-  
5           VIDUALS.—For purposes of clauses (i)  
6           through (iii) of this subparagraph, the  
7           term “individual or class of individuals”  
8           refers to the clients or customers of the  
9           covered public accommodation that enters  
10          into the contractual, licensing or other ar-  
11          rangement.

12          (B) INTEGRATED SETTINGS.—Goods, serv-  
13          ices, facilities, privileges, advantages, and ac-  
14          commodations shall be afforded to an individual  
15          regardless of vaccination status in the most in-  
16          tegrated setting appropriate.

17          (C) OPPORTUNITY TO PARTICIPATE.—Not-  
18          withstanding the existence of separate or dif-  
19          ferent programs or activities provided in accord-  
20          ance with this section, an individual who has  
21          not received a COVID–19 vaccine shall not be  
22          denied the opportunity to participate in such  
23          programs or activities that are not separate or  
24          different.



1 (D) ADMINISTRATIVE METHODS.—An indi-  
2 vidual or entity shall not, directly or through  
3 contractual or other arrangements, utilize  
4 standards or criteria or methods of administra-  
5 tion—

6 (i) that have the effect of discrimi-  
7 nating on the basis of vaccination status;

8 or

9 (ii) that perpetuate the discrimination  
10 of others who are subject to common ad-  
11 ministrative control.

12 (E) ASSOCIATION.—It shall be discrimina-  
13 tory to exclude or otherwise deny equal goods,  
14 services, facilities, privileges, advantages, ac-  
15 commodations, or other opportunities to an in-  
16 dividual or entity because of the vaccination  
17 status of an individual with whom the indi-  
18 vidual or entity is known to have a relationship  
19 or association.

20 (2) SPECIFIC PROHIBITIONS.—

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

23 (i) the imposition or application of eli-  
24 gibility criteria that screen out or tend to  
25 screen out an individual who has not had

1 a COVID–19 vaccine or any class of such  
2 individuals from fully and equally enjoying  
3 any goods, services, facilities, privileges,  
4 advantages, or accommodations, unless  
5 such criteria can be shown to be necessary  
6 for the provision of the goods, services, fa-  
7 cilities, privileges, advantages, or accom-  
8 modations being offered; and

9 (ii) a failure to make reasonable modi-  
10 fications in policies, practices, or proce-  
11 dures, when such modifications are nec-  
12 essary to afford such goods, services, facili-  
13 ties, privileges, advantages, or accommoda-  
14 tions to individuals who have not received  
15 a COVID–19 vaccine, unless the entity can  
16 demonstrate that making such modifica-  
17 tions would fundamentally alter the nature  
18 of such goods, services, facilities, privi-  
19 leges, advantages, or accommodations.

20 (3) SPECIFIC CONSTRUCTION.—Nothing in this  
21 title shall require an entity to permit an individual  
22 to participate in or benefit from the goods, services,  
23 facilities, privileges, advantages and accommodations  
24 of such entity where such individual poses a direct  
25 threat to the health or safety of others. The term

1 “direct threat” means a significant risk to the  
2 health or safety of others that cannot be eliminated  
3 by a modification of policies, practices, or procedures  
4 or by physical distancing, wearing a mask, or wear-  
5 ing personal protective equipment.

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

12 **SEC. 213. PROHIBITION OF DISCRIMINATION IN SPECIFIED**  
13 **PUBLIC TRANSPORTATION SERVICES PRO-**  
14 **VIDED BY PRIVATE ENTITIES.**

15 (a) GENERAL RULE.—No individual shall be dis-  
16 criminated against on the basis of vaccination status, or  
17 the individual’s unwillingness or inability to present a vac-  
18 cine passport or other proof of vaccinations status, in the  
19 full and equal enjoyment of specified public transportation  
20 services provided by a private entity that is primarily en-  
21 gaged in the business of transporting people and whose  
22 operations affect commerce.

23 (b) CONSTRUCTION.—For purposes of subsection (a),  
24 discrimination includes—

1           (1) the imposition or application by an entity  
2 described in subsection (a) of eligibility criteria that  
3 screens out or tends to screen out an individual  
4 based on vaccination status or any class of individ-  
5 uals based on vaccination status from fully enjoying  
6 the specified public transportation services provided  
7 by the entity, unless such criteria can be shown to  
8 be necessary for the provision of the services being  
9 offered; and

10           (2) the failure of such entity to make reason-  
11 able modifications, including physical distancing for  
12 an unvaccinated individual or an unvaccinated indi-  
13 vidual wearing a mask or personal protective equip-  
14 ment, to the extent that the unvaccinated individual  
15 interacts with individuals who are vulnerable to  
16 COVID–19 and unvaccinated for COVID–19.

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

1 **SEC. 214. EXEMPTIONS FOR PRIVATE CLUBS AND RELI-**  
 2 **GIOUS ORGANIZATIONS.**

3 The provisions of this subtitle shall not apply to pri-  
 4 vate clubs or establishments exempted from coverage  
 5 under title II of the Civil Rights Act of 1964 (42 U.S.C.  
 6 2000–a(e)) or to religious organizations or entities con-  
 7 trolled by religious organizations, including places of wor-  
 8 ship.

9 **SEC. 215. ENFORCEMENT.**

10 (a) AVAILABILITY OF REMEDIES AND PROCE-  
 11 DURES.—The remedies and procedures set forth in section  
 12 204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a–  
 13 3(a)) are the remedies and procedures this subtitle pro-  
 14 vides to any person who is being subjected to discrimina-  
 15 tion on the basis of vaccination status in violation of this  
 16 subtitle or who has reasonable grounds for believing that  
 17 such person is about to be subjected to discrimination in  
 18 violation of this subtitle. Nothing in this section shall re-  
 19 quire a person who has not received a COVID–19 vaccine  
 20 to engage in a futile gesture if such person has actual no-  
 21 tice that a person or organization covered by this subtitle  
 22 does not intend to comply with its provisions.

23 (b) ENFORCEMENT BY THE ATTORNEY GENERAL.—

24 (1) DENIAL OF RIGHTS.—

25 (A) AUTHORITY TO INVESTIGATE.—The  
 26 Attorney General shall have the authority to in-

1           investigate alleged violations of this subtitle, and  
2           shall undertake periodic reviews of compliance  
3           of entities subject to this subtitle.

4           (B) POTENTIAL VIOLATION.—If the Attor-  
5           ney General has reasonable cause to believe  
6           that—

7                   (i) any person or group of persons is  
8                   engaged in a pattern or practice of dis-  
9                   crimination under this subtitle; or

10                   (ii) any person or group of persons  
11                   has been discriminated against under this  
12                   subtitle and such discrimination raises an  
13                   issue of general public importance;

14           the Attorney General may commence a civil ac-  
15           tion in any appropriate United States district  
16           court.

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

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

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

1           (ii) providing a modification of policy,  
2           practice, or procedure, or alternative meth-  
3           od; and

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

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

11          (C) may, to vindicate the public interest,  
12          assess a civil penalty against the entity subject  
13          to this subtitle in an amount—

14               (i) not exceeding \$50,000 for a first  
15               violation; and

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

18          (3) SINGLE VIOLATION.—For purposes of para-  
19          graph (2)(C), in determining whether a first or sub-  
20          sequent violation has occurred, a determination in a  
21          single action, by judgment or settlement, that the  
22          entity subject to this subtitle has engaged in more  
23          than one discriminatory act shall be counted as a  
24          single violation.

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

5           (5) JUDICIAL CONSIDERATION.—In a civil ac-  
6 tion under paragraph (1)(B), the court, when con-  
7 sidering what amount of civil penalty, if any, is ap-  
8 propriate, shall give consideration to any good faith  
9 effort or attempt to comply with this Act by the en-  
10 tity. In evaluating good faith, the court shall con-  
11 sider, among other factors it deems relevant, wheth-  
12 er the entity could have reasonably anticipated the  
13 need for a reasonable accommodation for individuals  
14 who have not received a COVID–19 vaccine.

15 **SEC. 216. EFFECTIVE DATE.**

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

18 **Subtitle C—Nondiscrimination by a**  
19 **Public Entity and Access to Fed-**  
20 **eral Services**

21 **SEC. 221. NONDISCRIMINATION BY A PUBLIC ENTITY.**

22           (a) IN GENERAL.—Subject to the provisions of this  
23 subtitle, no qualified individual who has not received a  
24 COVID–19 vaccine shall, by reason of such vaccination  
25 status, including the qualified individual’s unwillingness or



1 inability to present a vaccine passport or other proof of  
2 having a COVID–19 vaccine, be excluded from participa-  
3 tion in or be denied the benefits of the services, programs,  
4 or activities of a public entity, or be subjected to discrimi-  
5 nation by any such entity.

6 (b) RIGHT TO VOTE SHALL NOT BE IMPAIRED.—  
7 It shall be unlawful for any State or political subdivision,  
8 as such term is used in the Voting Rights Act of 1965  
9 (52 U.S.C. 10301 et seq.), to require or impose a require-  
10 ment that a voter or voters must present a vaccine pass-  
11 port or otherwise present information regarding their vac-  
12 cination status in order to exercise the right to vote, in-  
13 cluding to vote in person, in any election involving any  
14 candidate for Federal office.

15 (c) RULE OF CONSTRUCTION.—Notwithstanding sub-  
16 section (a), a public entity shall not be considered in viola-  
17 tion of subsection (a) if that public entity requires a quali-  
18 fied individual who has not received a COVID–19 vaccine  
19 to engage in physical distancing, wear a mask, or wear  
20 personal protective equipment.

21 (d) ENFORCEMENT.—The remedies, procedures, and  
22 rights set forth in section 505 of the Rehabilitation Act  
23 of 1973 (29 U.S.C. 794a) shall be the remedies, proce-  
24 dures, and rights this title provides to any person alleging  
25 discrimination on the basis of status as a qualified indi-

1 vidual who has not received a COVID–19 vaccine in viola-  
2 tion of this section.

3 (e) DEFINITIONS.—

4 (1) QUALIFIED INDIVIDUAL WHO HAS NOT RE-  
5 CEIVED A COVID–19 VACCINE.—The term “qualified  
6 individual who has not received a COVID–19 vac-  
7 cine” means an individual who—

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

10 (B) with or without reasonable modifica-  
11 tions to rules, policies, or practices, including  
12 physical distancing, mask wearing, wearing per-  
13 sonal protective equipment, or undergoing a  
14 COVID-related symptom check meets the essen-  
15 tial eligibility requirements for the receipt of  
16 services or the participation in programs or ac-  
17 tivities provided by a public entity.

18 (2) PUBLIC ENTITY.—The term “public entity”  
19 has the meaning given that term in section 201 of  
20 the Americans with Disabilities Act of 1990 (42  
21 U.S.C. 12131).

22 **SEC. 222. ACCESS TO FEDERAL SERVICES.**

23 (a) FEDERAL SERVICES.—

24 (1) IN GENERAL.—No otherwise qualified indi-  
25 vidual who has not received a COVID–19 vaccine,

1 shall, solely by reason of her or his vaccine status,  
2 be excluded from the participation in, be denied the  
3 benefits of, or be subjected to discrimination under  
4 any program or activity receiving Federal financial  
5 assistance or under any program or activity con-  
6 ducted by any Executive agency or by the United  
7 States Postal Service.

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

11 (3) PROGRAM OR ACTIVITY.—In this section the  
12 term “program or activity” has the meaning given  
13 that term in section 504 of the Rehabilitation Act of  
14 1973 (29 U.S.C. 794).

15 (b) PETITION; ACCESS TO PROPERTY.—An individ-  
16 ual’s right to petition the Federal Government and an in-  
17 dividual’s right to access Federal property shall not be af-  
18 fected because the individual is a qualified individual who  
19 has not received a COVID–19 vaccine. Proof of COVID–  
20 19 vaccination shall not be a requirement for access to  
21 Federal property or Federal services, or for access to con-  
22 gressional grounds or services.

23 (c) EXCEPTION RELATING TO ADMISSION AND DE-  
24 PARTURE OF ALIENS.—

1           (1) IN GENERAL.—Notwithstanding any other  
2 provision of this Act, the Secretary of Homeland Se-  
3 curity may request, require, and collect vaccination  
4 records providing evidence of vaccination for  
5 COVID–19, SARS–CoV–2, or any variant of  
6 COVID–19 or SARS–CoV–2 from any alien (as de-  
7 fined in section 101(a) of the Immigration and Na-  
8 tionality Act (8 U.S.C. 1101(a)) seeking admission  
9 to the United States or departing the United States,  
10 to the extent necessary to ensure public health.

11           (2) RECORDKEEPING.—The Secretary of Home-  
12 land Security may maintain such evidence of vac-  
13 cination and any ancillary documentation for a pe-  
14 riod the Secretary considers necessary.

15           (3) PRIVACY.—Information collected or main-  
16 tained under paragraph (1) or (2) may not be trans-  
17 mitted or communicated to any entity or individual  
18 other than an employee of the Department of Home-  
19 land Security designated by the Secretary of Home-  
20 land Security.

21           (4) RULE OF CONSTRUCTION.—Nothing in this  
22 subsection shall be construed to provide an alien a  
23 right or an enforceable action relating to the admis-

1 sion of the alien to the United States or authoriza-  
2 tion to remain in the United States.

○