



June 17, 2021

WHAT YOU NEED TO KNOW ABOUT

States Opposed to Covid-19 Vaccine Mandates

PRO POINTS

• **Republican state lawmakers across the country** found the concept of mandating Covid-19 vaccines to be a violation of privacy and personal freedom. Many of them introduced measures in their legislatures aimed at forbidding employers, businesses and schools from scrutinizing immunization histories despite public health efforts to end the pandemic.

• **A few high-profile lawsuits have been filed against employers** who directed their workers to get vaccinated, including one involving several employees in the Los Angeles Unified School District. And more than 100 workers at Houston Methodist hospital sued for being suspended for refusing to comply with a vaccination policy. A federal judge in Texas dismissed their case but the plaintiffs have said they're willing to go to the U.S. Supreme Court.

• **The cruise industry is feuding with Florida as the industry moves to host fully-vaccinated trips** while Republican governors oppose immunization mandates. That has kicked off a legal battle over whether cruise operators are allowed to require passengers to be inoculated before boarding in states that have banned "vaccine passports."

HOW WE GOT HERE

The rapid development and rollout of multiple Covid-19 vaccines quickly sparked complicated legal and political questions about the range of personal freedoms during a public health crisis. As many conservative activists eschewed mask-wearing and clashed over government lockdowns throughout the pandemic, Republican politicians across the country moved to codify legal protections for people who choose not to get vaccinated.

Proposals and laws vary widely but most employers have preferred to strongly urge inoculation without mandating it, while some, like certain health care providers, are making it a condition of employment. One new law in Texas, for example, bars businesses from requiring their customers to be vaccinated against Covid-19 or they risk losing state contracts or their operating licenses and permits. A few states sought to expand their vaccination exemptions to include philosophical objections. In Kentucky, a law enacted in March allows children and adults to refuse vaccinations based on "conscientiously-held beliefs." Some governors stepped in unilaterally. Idaho Republican Gov. Brad Little signed an executive order in April forbidding state officials and entities from requiring proof of Covid-19 vaccination to access state services or facilities.

Much of the legislation around the country designed to protect the unvaccinated from government and corporate intrusion was ultimately defeated or stalled out as legislatures adjourned. But the debate is likely to reemerge in states that hold special sessions later this year, and as employers call workers back into the office and students return to in-person learning this fall.



How states are resisting mandatory Covid-19 vaccinations

Nearly every state has proposed legislation or passed laws related to whether state governments, businesses or schools can mandate Covid-19 vaccines for their residents, employees or students. While all of the actions explore the limits of how governments can regulate immunization, their scope varies significantly from state to state. Here's a look at some of the bills that were debated in state legislatures this year.

Alabama



LEGISLATION



HB 214

HB 608

Two proposed House bills — HB 214 and HB 608 — sought to bar venue operators, sports teams and event sponsors and other ticket vendors from denying customers' entry based on their vaccination status. The measures also would have forbid companies from punishing employees based on their Covid immunization status through harassment, pay, firing or refusing to promote workers.

Connecticut



LEGISLATION



SB 436

SB 568

A pair of dueling bills related to vaccination exemptions for school-age children were up for debate in Connecticut this year. SB 436 sought to add a "philosophical exemption" to the state's mandatory vaccination law. SB 568, however, would have eliminated any nonmedical exemption to the requirements for K-12 students in public and private schools, as well as children in day care and college students.

Maine



LAW, THEN VOTER REFERENDUM



While many states sought new ways to avoid scrutinizing the vaccination status of their residents, Maine voters overwhelmingly upheld a 2019 law earlier this year that had eliminated philosophical and religious exemptions for mandated childhood vaccines. That law also bars health care professionals from refusing vaccinations for nonmedical reasons.

North Carolina



LEGISLATION



HB 558

Legislation introduced in North Carolina this session would have made it illegal for the state to mandate vaccinations against specific illnesses, including Covid-19. The measure also sought to provide broad job protections for employees who are not immunized. A person's decision to be vaccinated is a "private matter," HB 558 states, and those who refuse vaccinations could not be required to offer a written explanation. Hospitals would also not be allowed to refuse treatment to people based on their vaccination history.

South Dakota



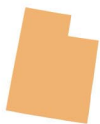
LEGISLATION



HB 1235

If enacted, HB 1235 would have eliminated all vaccine requirements for schoolchildren. The measure was defeated after a hearing with emotional testimony from supporters and opponents alike. The bill, which was opposed by Gov. Kristi Noem, also stated that any school, medical provider or person who forces someone to be immunized could be charged with a misdemeanor.

Utah



LAW



Gov. Spencer Cox signed a law in March that prevents the Utah government from requiring its employees be vaccinated. The law also bars public schools and universities from requiring students to show proof of vaccination.

Sources: Husch Blackwell, POLITICO staff reports



WHAT'S NEXT

As conservative states deflect public health precautions and ban vaccination mandates, some Democratic-controlled states are embracing digital health certificates or “vaccine passports.” New York became the first to greenlight an app that allows people to quickly reveal their immunization status for gaining entry into sports and entertainment venues. Gov. Andrew Cuomo has championed the government-funded technology as a way to help businesses recover by helping people feel safe to gather in groups again.

Other states are following New York’s lead and rolling out their own versions. Hawaii’s will allow inter-state travelers to show proof of vaccination to avoid testing. California officials are monitoring private development of passport technology but the state is not yet exploring a state-funded program.

When it comes to traveling, the sharp disagreement about the ethics of vaccine passports is hitting the cruise industry the hardest, where extended close quarters on ships makes transmission of diseases more likely. As cruise lines move to restart their operation after being docked for most of the pandemic, they’ve found their efforts to promote vaccination stymied by states like Florida and Texas.

POWER PLAYERS

- ✿ **Florida Gov. Ron DeSantis:** The first-term Republican has helped gin up conservative opposition to vaccine passports, and downplayed the need for enforcing social distancing policies. He signed a law in May banning vaccine passports in the state just as the cruise industry sought to use them to restart their operations, blocking any business or government entity from requiring proof of Covid-19 immunization.
- ✿ **New York Gov. Andrew Cuomo:** The embattled Democratic governor has piloted an “Excelsior Pass” app New Yorkers can use to prove their vaccination status with participating businesses and venues. More than 1 million people downloaded the app by the end of May as other states explore similar programs.
- ✿ **Microsoft, Oracle and other tech giants:** Health and technology organizations have partnered with entities like the Mayo Clinic to build the Vaccine Credential Initiative, a program to standardize data on how vaccines are tracked. IBM was behind the development of New York’s “Excelsior Pass.”