

SENATE BILL REPORT

SB 5667

As Reported by Senate Committee On:
Law & Justice, January 27, 2022

Title: An act relating to the possession and use of forged and falsified COVID-19 vaccination documents.

Brief Description: Concerning the possession and use of forged and falsified COVID-19 vaccination documents.

Sponsors: Senators Salomon, Hunt, Keiser, Mullet, Van De Wege and Wellman.

Brief History:

Committee Activity: Law & Justice: 1/24/22, 1/27/22 [DP, DNP].

Brief Summary of Bill

- Creates a misdemeanor crime to knowingly exhibit, display, or otherwise offer as genuine, fraudulent proof of vaccination against COVID-19.
- Creates a class C felony crime to knowingly sell, offer or expose for sale, or otherwise transfer, or possess with the intent to do the same, a document, printed form, or other writing which falsely purports to be proof of vaccination against COVID-19.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen and Salomon.

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; McCune, Assistant Ranking Member; Honeyford and Wagoner.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Joe McKittrick (786-7287)

Background: In Washington, over 5 million individuals, or about 71 percent of Washington's total population who are five years old or older, have been fully vaccinated against COVID-19. These individuals, along with those who have received their first dose of the COVID-19 vaccine, are given a small white card with a federal logo showing the vaccine type, the number of doses received, the date of each vaccine dose, and the healthcare professional or clinic site providing the vaccine dose. Widespread vaccination remains the primary means available to protect the Washington State health care system, avoid the return to stringent public health measures, and pull the state out of the COVID-19 pandemic.

Under normal circumstances, COVID-19 vaccination cards are distributed by authorized health care providers to vaccine recipients at the time the recipient receives a COVID-19 vaccine. Since August 2021, U.S. Customs and Border Protection officers have seized thousands of fraudulent COVID-19 vaccination cards at international mail facilities and at express consignment carrier facilities.

On August 20, 2021, Governor Jay Inslee signed Proclamation 21-14.1 which, in part and with some exceptions, prohibits the following:

- any worker from engaging in work for a state agency if the worker has not been fully vaccinated against COVID-19;
- any state agency from permitting any worker to engage in work for the agency if the worker has not been fully vaccinated against COVID-19 and provided proof as required;
- any worker from engaging in work for the operator of an educational setting if the worker has not been fully vaccinated against COVID-19;
- any operator of an educational setting from permitting a worker to engage in work for the operator if the worker has not been fully vaccinated against COVID-19 and provided proof as required;
- any health care provider from failing to be fully vaccinated against COVID-19 after October; and
- any operator of a health care setting from permitting a health care provider to engage in work for the operator as an employee, contractor, or volunteer in their capacity as a health care provider if the health care provider has not been fully vaccinated against COVID-19 and provided proof thereof as required.

Providers who do not work in a health care setting must provide proof of vaccination to the operator of the facility in which the provider works, if any, or, if requested, to a lawful authority. A lawful authority includes, but is not limited to, law enforcement, local health jurisdiction, and the state Department of Health.

Though there is currently no state-wide mandate for patrons of private businesses to provide proof of vaccination status prior to entry, King County has implemented a vaccine

requirement for restaurants, bars, indoor recreation, and large outdoor events, and Jefferson and Clallam Counties have implemented vaccine requirements for restaurants and bars.

Summary of Bill: An individual who with the intent to defraud, to exhibit, to display, or otherwise offer as genuine, fraudulent proof of COVID-19 vaccination status at any retail or service establishment open to the public or public space that requires proof of vaccination against COVID-19 as a condition of entry is guilty of a misdemeanor.

A misdemeanor is punishable by up to 90 days in jail, a \$1,000 fine, or both.

An individual who knowingly sells, offers or exposes for sale, or otherwise transfers, or possesses with the intent to do the same, a document, printed form, or other writing which falsely purports to be a verification issued by a governmental agency of a person having received one or more doses of a vaccine against COVID-19 is guilty of a class C felony.

A class C felony is punishable by up to five years in prison, a \$10,000 fine, or both.

Appropriation: None.

Fiscal Note: Requested on January 17, 2022.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Falsification of COVID-19 vaccination cards is prevalent throughout the nation and Washington is no exception. We are in the midst of the most serious public health crisis in our lifetime. There is no worse time for someone to falsify proof of vaccination. This bill is not at all about vaccine mandates, but instead it allows businesses who choose to require proof of vaccination to receive police intervention if someone presents them with a forged vaccine document. People who are in a high-risk category in relation to COVID-19 should be able to go to an establishment without worrying if anyone else has used a false vaccine document. Likewise U.S. customs has seized thousands of fake COVID -19 vaccination cards already.

CON: We were told that we would not be required to get the vaccine, would not be required to have vaccine passports, and would not be required to take other actions on this issue, yet here we are. This committee should address why people feel the need for a forged vaccination card. It is already a federal crime to create or possess a forged COVID-19 vaccination card. The measures the ruling party in this state use to force people to bend to their will are concerning. I do not support forcing the vaccine on anyone.

Supplying a COVID-19 vaccination card to enter public or private space is a draconian requirement. The temporary emergency issued by Governor Inslee will fundamentally

change our society unless we ensure all mandates related to COVID-19 remain temporary and are not codified or normalized by becoming state law. This bill will create a dangerous precedent. Are we going to charge an 18 year old for presenting a forged vaccine card to enter a concert, or charge his mother with a felony printing and assisting her son to fill out the card? Providing proof of vaccination does not make the presenter any less of a threat than a person who does not have a vaccination card. Discussion of this bill should immediately cease.

While vaccination is the primary means endorsed by the Department of Health to fight against COVID-19, physicians across the country identify several effective treatments to combat COVID-19. As other parts of the world are moving forward and away from enforcing production of vaccine cards for participation in society this bill is a remarkable step backward. This bill would create an environment where a five year old could be charged with a misdemeanor and the child's parent or guardian could be guilty of a felony. Vaccinated individuals can catch and spread COVID-19, and therefore creating a law dividing citizens into vaccinated and unvaccinated classes is discriminatory. Please end discrimination and segregation and do not pass this bill.

This bill could indirectly punish individuals who have personal cultural, political, or religious beliefs. This bill could also produce an equitable result, where people in some counties may be punished while those in other counties may not. This bill is arbitrary and capricious because some business owners may call the police while others may not. Increased criminalization is not the solution to this public health crisis. This bill just brings more people in contact with the carceral system without providing a public health benefit.

Persons Testifying: PRO: Senator Jesse Salomon, Prime Sponsor.

CON: Jeff Pack, Me; Amanda McKinney, Yakima County Commissioner; Teri Rogers Kemp, WDA/WACDL; Brian Thompson.

Persons Signed In To Testify But Not Testifying: No one.