

Matthew Deffebach and Mini Kapoor in HR Magazine: ‘Do State Bans on Vaccine Passports Impact Employer Policies?’

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Haynes Boone Partner [Matthew Deffebach](#) and Associate [Mini Kapoor](#) talked with *HR Magazine* about navigating conflicting state and local laws for vaccine passport requirements and how those laws affect OSHA guidelines.

Below is an excerpt:

When employers and workers see headlines about states with vaccine passport bans, they should understand that these directives are a lot more nuanced than a simple headline may convey... [W]hile some states are banning vaccine passports in some situations, many are still allowing employers to ask their employees whether or not they have received a COVID-19 vaccine.

Still, navigating different and sometime conflicting state and local laws is tricky. Employers will continue to face enormous challenges as they relax their COVID-19 safety policies and reopen their worksites... Employers should continue to look to the Occupational Safety and Health Administration (OSHA) and state and local laws that specifically address the workplace.

State legislation and executive orders regulating vaccine passports generally prohibit state institutions from requiring proof of vaccination before people can access state offices or receive services from the state, said Mini Kapoor, an attorney with Haynes Boone in Houston. However, she said, the orders vary in how they restrict private businesses. Business restrictions may fall into three categories: complete ban on requiring vaccine passports; restrictions based on whether a private business receives public funds; no restrictions for private businesses.

Interaction with Other Laws

Do state vaccine-passport bans conflict with OSHA rules and other workplace safety requirements and guidelines? Probably not.

“The primary focus of passport ban laws is to address the customer relationship when patronizing a business,” said Matthew Deffebach, an attorney with Haynes Boone in Houston. “Even if some of these laws could be interpreted to sweep more broadly as to prevent employers from requiring vaccine passports in their private-sector workplaces, OSHA has not taken a position on whether an inquiry as to proof of vaccine status is required for worker safety.”

Therefore, he said, there is no conflict with OSHA COVID-19 guidance and limitations on the use of vaccine passports. He noted that the U.S. Equal Employment Opportunity Commission has made it clear that, subject to certain conditions, a private-sector employer [can ask about the vaccination status of its employees.](#)

"These vaccine passport ban laws should not interfere with a private-sector employer's ability to simply inquire as to the vaccine status of its employees," he said.

To read the full article, click [here](#).