

VACCINE EXEMPTION FAQ – CAPACITY LIMITS

May 18, 2021

What is the Vaccine Exemption and how can it be used to increase capacity?

- All industries have the option of taking advantage of the Vaccine Exemption, which will allow a business to increase capacity in the following ways:
 - o Fully vaccinated individuals do not have to count towards COVID-19 capacity limits across all industries.
 - o Bars, restaurants and other establishments that allow onsite consumption of food or alcohol can increase table or party size above the limit of ten if all patrons age 16+ at that table or within that party are fully vaccinated.
 - o Establishments with a late-hour liquor license can operate without hour restrictions if only fully vaccinated patrons are allowed to enter.
 - o Establishments can operate without COVID-19 restrictions within their establishment or within any room or floor if only fully vaccinated patrons and employees are allowed within that area.

What does “fully vaccinated” mean?

- Individuals are considered fully vaccinated 14 days after their final dose of the COVID-19 vaccine. The final dose is defined as the second dose of a two-dose vaccine (i.e. Pfizer or Moderna), or the first dose of a one-dose vaccine (i.e. Johnson & Johnson).
- To be fully vaccinated, an individual must have received a vaccine that has been approved by the World Health Organization for emergency use. As of May 13, 2021, the following vaccines are acceptable: Pfizer/BioNTech, Janssen (Johnson & Johnson), Moderna, Astrazeneca-SK Bio, Serum Institute of India, and Sinopharm.

Are businesses required to take part in the Vaccine Exemption?

- No. If a business chooses not to take part in the Vaccine Exemption, then they should follow the Chicago Bridge Phase guidelines.

Are businesses required to verify that individuals are fully vaccinated in order to take advantage of the Vaccine Exemption to increase capacity?

- Yes. Businesses that choose to take advantage of the Vaccine Exemption to increase capacity are required to verify that patrons are fully vaccinated. Following full vaccination, individuals receive a vaccination card from the administrator of the vaccine. At this point, there is no uniform proof of vaccine. Vaccination card, photo/photocopy of vaccination card, or other printout/photo/electronic proof of vaccine records with the patron’s name are some acceptable methods of demonstrating fully vaccinated status. Businesses may develop methods to evaluate authenticity of the documentation provided.
- If businesses opt to establish a system of checking proof of vaccination to permit greater capacity, businesses should evaluate all applicable data privacy laws for retention of the information. Businesses that choose not to take advantage of the Vaccine Exemption are not required to ask patrons for proof of vaccination. Businesses should evaluate privacy concerns to implement a reliable method to manage proof of vaccinations.

What records should a business check and retain to comply with the Vaccine Exemption?

- Similar to displaying a driver's license to show proof of age, individuals would show proof of vaccination prior to entry. Retaining a copy of the record is not a requirement of compliance with this option. Businesses that have registration options for an event, could have a self-reporting function on the registration that the individual would check a box during the registration and then at the time of the event, provide the proof prior to entering the event. Clear communication to attendees on this requirement and expectation to bring the documentation with them for the event is recommended. Please consult an attorney with any data privacy or HIPAA compliance questions.
- At minimum, businesses are required to track which customers are under vaccine exemption during their time in the establishment and demonstrate the process to on-site investigators upon request. Additionally, customers should be prepared to show proof of vaccination that matches the information tracked by the establishment.

Does an establishment need to be licensed by BACP in order to take advantage of the Vaccine Exemption?

- Provide that a business license is not required for their business activity (i.e. Places of Worship) , an establishment does not need to be licensed in order to take advantage of the Vaccine Exemption.

Who is responsible for ensuring that individuals are fully vaccinated to increase capacity?

- If an establishment is licensed by BACP, then the licensed entity is responsible for ensuring that individuals are fully vaccinated if they want to take advantage of the Vaccine Exemption.
- If an establishment is not licensed by BACP (i.e. an office or a Place of Worship), an on-site designee of the building owner or lease holder is responsible for ensuring that individuals are fully vaccinated if they want to take advantage of the Vaccine Exemption.

How does the Vaccine Exemption affect COVID-19 capacity limits?

- In the Chicago Bridge Phase, industries are limited to COVID-19 capacity limits as dictated in [this document](#).
- If an establishment chooses to take advantage of the Vaccine Exemption, fully vaccinated individuals do not count towards the capacity limits set by the Chicago Bridge Phase.
- A business must verify that a customer is fully vaccinated in order to exempt that customer from COVID-19 capacity limits. Businesses are required to track which customers are under vaccine exemption during their time in the establishment and demonstrate the process to on-site investigators upon request. Additionally, customers should be prepared to show proof of vaccination that matches the information tracked by the establishment.
- If a business verifies that all patrons within that establishment or within a room or floor are fully vaccinated, then they do not need to adhere to other COVID-19 regulations within that area. Otherwise, they must maintain six feet of social distancing between parties.

How does the Vaccine Exemption affect table size limits?

- In the Chicago Bridge Phase, table or party size at bars, restaurants and other establishments that allow onsite consumption of food or alcohol remains limited to no more than ten people at tables and six people at bars/counters.
- If an establishment chooses to take advantage of the Vaccine Exemption, table or party size can increase above these limits only if every patron within a party that is 16 or older is fully vaccinated.
- If any member of a party is over the age of 16 and unvaccinated, then party size limited to no more than ten people at tables and six people at bars/counters. Unvaccinated individuals are allowed within these larger parties only if they are under the age of 16, and there can never be more than ten people at a table or 6 people within a party at a bar/counter.
- In order to take advantage of this exemption and increase table/party size, business must verify that all customers 16 or older within a table or party is fully vaccinated, and customers should be prepared to show proof of vaccination that matches the information tracked by the establishment.

Are establishments required to maintain six feet of social distancing between parties of fully vaccinated individuals?

- If an establishment chooses to only allow customers and employees that are fully vaccinated within their establishment or within any room or floor, then they can operate without any COVID-19 restrictions within that area. This means that six feet of social distancing would not be required between parties, provided that all customers within the establishment or within that specific room or floor are fully vaccinated.
- In order to take advantage of this exemption and operate without COVID-19 restrictions, a business must verify that all customers and employees within the establishment or within any room or floor is fully vaccinated, and customers should be prepared to show proof of vaccination that matches the information tracked by the establishment.
- If any of the customers or employees within an establishment or a room or floor are not fully vaccinated, then six feet of distancing must be maintained between all parties within that area.
- If formulating policies regarding employee vaccination, the City recommends that employers take into account legal concerns (e.g., [see EEOC guidance](#)), the timeline of vaccine availability in Chicago, as well as the time it takes to become fully vaccinated after the first shot in a two-shot series (42 days for the Moderna vaccine).

How does the Vaccine Exemption apply to standing areas?

- In the Chicago Bridge Phase, standing areas can open at 25% capacity at bars, restaurants, venues and other establishments. Parties must be placed at standing tables, and parties are limited to ten people.
- If an establishment chooses to take advantage of the Vaccine Exemption, patrons that are fully vaccinated do not count towards capacity limits at standing areas. Additionally, if all patrons 16+ are fully vaccinated, there is no cap on party size within standing areas.

How does the Vaccine Exemption affect operating hours for bar and restaurants?

- In the Chicago Bridge Phase, bars, restaurants and other establishments that sell alcohol for onsite consumption can resume normal hours of operation. This means that they can stay open until 2:00 am Monday mornings through Saturday mornings and 3:00 am Sunday mornings.
- Establishments with a Late Hour Liquor License can operate without hour restrictions if only fully vaccinated patrons and no unvaccinated patrons are permitted to enter. This means that they can stay open until 4:00 am Monday mornings through Saturday mornings and 5:00 am Sunday mornings only if all patrons are fully vaccinated during the late hour operations.
- As long as all patrons are fully vaccinated, establishments are not subject to COVID-19 restrictions.
- In order to take advantage of this exemption and operate during late-hour operating hours, a business must verify that all customers are fully vaccinated, and customers should be prepared to show proof of vaccination that matches the information tracked by the establishment.

How does the Vaccine Exemption apply to dance floors?

- In the Chicago Bridge Phase, dance floors can open at private social events such as weddings, with fully vaccinated individuals allowed to dance without face coverings and without physical distancing. Unvaccinated individuals should continue to wear masks and maintain physical distancing as much as possible while dancing, especially indoors.
- Venues are required to verify that guests that are dancing without face coverings and without physical distancing are fully vaccinated, and guests should be prepared to show proof of vaccination that matches the information tracked by the venue.
- Establishments that are open to the public may open dance floors and allow dancing without masks or physical distancing only if they verify that all patrons within the establishment or within the room or floor are fully vaccinated.