

WMC: Biden administration's vaccine and testing mandate is unlawful and unworkable

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Survey Shows 9 in 10 Employers Expect to Lose Workers if the Mandate is Enacted
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MADISON - Wisconsin Manufacturers & Commerce (WMC) - the combined state chamber and manufacturers' association - filed an amicus brief Tuesday in support of a lawsuit filed against the Biden Administration's vaccine & testing mandate. The brief explains why the OSHA mandate is illegal and how it would greatly harm Wisconsin businesses through mass resignations and expensive compliance costs.

The amicus brief notes that Congress has not given OSHA any statutory authority to mandate vaccinations. The brief also details the devastating impact the vaccine and testing mandate would have on Wisconsin's workforce.

WMC conducted a survey last week of its members with 100 employees or more on the OSHA emergency temporary standard (ETS). The survey revealed that 88 percent of respondents expect to lose part of their workforce if the mandate is enacted.

"Wisconsin's workforce shortage continues to be compounded by President Biden's policies," said WMC President & CEO Kurt R. Bauer. "For Wisconsin businesses, not only is this mandate unlawful, it is unworkable. If enacted, most employers would not be able to comply with the rigorous requirements and, to make matters worse, workers would end up walking off the job."

Of the businesses who anticipate losing employees, more than half expect to lose between 11 and 40 percent of their workforce under the OSHA ETS.

"If the ETS goes into effect, a significant number of Drexel Building Supply team members will either quit and go to an employer with fewer than 100 employees or will simply retire," said Drexel Building Supply President Joel Fleischmann. "Drexel Building Supply is already at a critical moment in its business due to the pandemic shortage of labor and supply chain issues causing shortages in material and supplies. The impact on Drexel Building Supply's business will be widespread and devastating."

In addition to the mandate's impact on workforce, most large businesses do not believe the requirements are even attainable. According to WMC's survey, 88 percent said there would be disruptions to company operations and 84 percent cited a lack of testing supplies required to administer the weekly testing to non-vaccinated employees.

"Twin Disc has just over 250 employees in the US, with approximately the same vaccination rate of the country. How is it fair that they are mandated to be vaccinated or tested weekly when they could walk across the street or drive across town to another employer with fewer than 100 employees and not have to do either?" said John Batten, President & CEO of Twin Disc, Inc. "The OSHA ETS is an unfair burden and expense on employers like Twin Disc and poses a huge, unnecessary risk of not maintaining continuous production during the ETS if unvaccinated employees choose to leave."

The WMC Litigation Center filed the amicus brief on behalf of WMC in support of Tankcraft Corporation and Plasticraft Corporation v. Occupational Safety and Health Administration in the United States Court of Appeals for the Seventh Circuit. The Wisconsin Institute for Law and Liberty (WILL) filed the original lawsuit earlier this month.