

News Brief

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Senate Passes Resolution to Repeal Vaccine Mandate for Private Sector Employers

On Dec. 8, 2021, the Senate voted on and passed a resolution to repeal President Biden's vaccine mandate for private employers. The resolution passed with a simple majority vote of 52 to 48.

The resolution aims to overturn the Occupational Safety and Health Administration's (OSHA) emergency temporary standard (ETS) that requires private employers of 100 or more employees to implement a vaccine or weekly testing policy. Republicans argue that the mandate is unconstitutional and a federal overreach of authority.

The resolution was supported by all the Republican senators and two Democratic senators from Montana and West Virginia.

The next step for the resolution is the House to vote on the resolution. President Biden has stated that, if the resolution is passed in the House, he would veto the bill.

Senate Resolution

The Biden Administration has stated that the vaccine mandate would not create a burden on employers as the majority of employees are fully vaccinated and the rule does not include small businesses.

The resolution comes after businesses have voiced concerns about terminating employees who refuse the vaccine or testing.

OSHA Vaccine Mandate ETS

The ETS received at least 34 lawsuits, with one filed in all 12 regional circuit courts. In November, a judicial panel from the 5th U.S. Circuit Court of Appeals issued a stay that effectively delayed the ETS from taking effect until the courts could provide a further review.

Given the number of lawsuits filed across the country, the courts decided to consolidate them and hold a lottery to see which court would hear arguments in the case. The lottery—conducted similar to a bingo drawing—was won by the 6th U.S. Circuit Court of Appeals, based in Cincinnati.

The 6th Circuit Court of Appeals' timeline for acting will likely not be until the middle of December. Until then, OSHA has made it clear that they are standing down on the implementation of the ETS.

What's Next?

The resolution will now go to the House of Representatives where it is unlikely to take shape as the House is mostly made up of Democrats. Stay tuned for details on this developing story.