



INDIANA CHAMBER REMAINS OPPOSED TO NEW STATE VACCINE MANDATE BILL, BUT HOPEFUL FOR POSITIVE RESOLUTION

House Bill 1001 could restrict businesses' ability to require the COVID-19 vaccine for employees, if they choose to do so. Much of this legislation is extremely detrimental to an employer's ability to establish a safe workplace and sets a dangerous precedent. (However, we support the emergency services portion of the measure).

What's in HB 1001 becomes all the more critical now that the state law will be the law of the land with the federal vaccine/testing mandate struck down by the U.S. Supreme Court.

Top concerns with what the House bill currently includes/implies:

- Employers must pay for COVID-19 testing for workers who opt to not get vaccinated. For some businesses, this provision will dramatically impact their vaccine policy because it would be too expensive to administer weekly testing for all of their unvaccinated workers. The approximate cost of a single test can be \$150.
- The expanded religious exemption means many more people are likely to claim it. The language also does not have the same exception that exists in federal law for employers who try to reasonably accommodate the religious exemption but determine the accommodation would be a significant disruption to their business activities. In other words, there is no legal remedy for businesses that find themselves in that predicament.
- It strongly discourages employers from implementing a vaccine mandate. Between the testing costs noted above and the open-ended religious exemptions with no remedy for employers, it would put employers at a disadvantage economically and from a productivity standpoint. By taking steps to make it less likely for employers to continue or implement a vaccine mandate, this directly contradicts what the state has been promoting for months and months.

The latest action and Chamber response:

After hours of debate, HB 1001 passed the Indiana House of Representatives 58-35 on January 18.

Previously in committee, language was added that says employees who are terminated for not getting vaccinated or not following the testing guidelines would be eligible for unemployment compensation. As that provision was initially written, the employer would have their unemployment insurance taxes go up to cover those benefits. Subsequently, on second reading, that was amended on the floor – via Rep. Dan Leonard (R-Huntington) – to take out the employer-specific penalty, but it still says that these employees can draw unemployment benefits; that is not what the unemployment system is designed to do.

It should be noted that the key driver behind this bill was House Republicans learning of health care workers who were concerned about being terminated for not being vaccinated. But while the U.S. Supreme Court recently struck down the Biden administration's vaccine requirement for employers with 100 or more employees, the Court maintained the mandate for health care workers. So that would supersede whatever state law is made on this matter and those health care employees who prompted this legislation cannot be aided by this bill. That begs the question why it would even make sense to move forward with the related provisions at the state level. The Indiana Chamber doesn't think it does.

While HB 1001 is a top agenda item for the House Republicans, our analysis is there is not nearly as much enthusiasm for this bill on the Senate side. The Senate is focused on SB 3, which only includes the first three sections of HB 1001 dealing with the Governor's emergency orders. Our hope would be that the Senate jettisons the rest of HB 1001 and focuses on this aspect, which we support.

Details on the current bill content:

- Testing: Employers can seek what likely will be a partial reimbursement (up to \$50) for COVID test costs from the state (Department of Workforce Development) until June 2023.
- Exemptions: Essentially, if an employee asks for either a medical exemption (with a note from a health care provider) or religious exemption, the employer is obligated to grant it – with no questions asked. However, an exempted employee can be required by the employer to undergo COVID-19 testing. If the employee refuses, the employee can be terminated.
- Definition of employee: Expands to now include student interns and independent contractors. Adds provisions excluding federal contractors and out-of-state workers.
- Unemployment benefits: Guarantees unemployment benefits for those who refuse the COVID-19 vaccine and are forced to resign/are fired.
- Definition of natural immunity: Clarifies how someone qualifies for natural immunity exemption, which is by antibody testing.
- State emergency: Adds provisions for temporary licensing of emergency medical personnel. Also deletes the cut-off date for SNAP benefits to allow continued receipt of federal monies (a future date down the road may be inserted); this was a Rep. Ryan Hatfield (D-Evansville) amendment that Rep. Jerry Torr (R-Carmel) spoke in favor of and ultimately passed.

Indiana Chamber stance on vaccine mandates:

Ideally, state government – as well as federal – would have stayed out of what private businesses can and cannot do regarding requiring COVID-19 vaccines for their workers, visitors and patients. Employers are in the best position of knowing what's best for the safety of those in their workplace.

State law now with green light:

It bears repeating: With the U.S. Supreme Court striking down the federal COVID-19 vaccine/testing mandate for employers with 100 or more workers, HB 1001 increases in significance. The content of HB 1001 – if passed – now would go into effect without being in conflict of federal policy and Hoosier employers would have to comply.

What the Indiana Chamber is doing:

Our objections and concerns are ongoing and we'll continue to convey those to bill authors as well as House and Senate leaders. The most urgent item we are focused on remains the removal of the provision calling for employers to pay for weekly testing. The Chamber's overall goal is to make this legislation as palatable as possible for employers.

Next step in the process:

House Bill 1001 awaits action in the assigned Senate committee.

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