

U.S. court reinstates Biden's vaccine mandate for big businesses

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A person walks past a mobile COVID-19 vaccine clinic during the spread of the Omicron coronavirus variant in Manhattan, New York, US, December 7, 2021 [Andrew Kelly/ Reuters]

New York, December 18 (RHC)-- An appeals court in the United States has reinstated President Joe Biden's COVID-19 vaccine mandate for large businesses. The ruling by the Sixth US Circuit Court of

Appeals in Cincinnati reversed a decision by a federal judge in a separate court that had paused the mandate.

The rule from the U.S. Occupational Safety and Health Administration (OSHA) applies to businesses with at least 100 workers and covers 80 million American workers. It was due to take effect on January 4th.

Republican-led states joined with conservative groups, business associations and some individual businesses to push back against the requirement as soon as OSHA published the rules in early November. They argued the agency was not authorised to make the emergency rule, in part because the coronavirus is a general health risk and not one just faced by employees at work.

“Given OSHA’s clear and exercised authority to regulate viruses, OSHA necessarily has the authority to regulate infectious diseases that are not unique to the workplace,” Judge Julia Smith Gibbons, who was nominated to the court by former President George W Bush, wrote in her majority opinion.

“Vaccination and medical examinations are both tools that OSHA historically employed to contain illness in the workplace,” she wrote. Gibbons said the rule “is not a novel expansion of OSHA’s power; it is an existing application of authority to a novel and dangerous worldwide pandemic”.

The case was consolidated in the Sixth Circuit, which is dominated by Republican-appointed judges. Earlier this week, the circuit’s active judges rejected a move to have the entire panel consider the case on an 8-8 vote.

The dissent came from Judge Joan Larsen, an appointee of former President Donald Trump, who said Congress did not authorise OSHA to make this sort of rule and that it did not qualify as a necessity to use the emergency procedures the agency followed to put it in place. Larsen also argued that vaccinated workers “do not face ‘grave danger’ from working with those who are not vaccinated”.

The White House welcomed the ruling saying in a statement that it will protect workers. “Especially as the U.S. faces the highly transmissible Omicron variant, it’s critical we move forward with vaccination requirements and protections for workers with the urgency needed in this moment,” it said.

Republican state attorneys general and business groups said they would appeal Friday’s decision to the U.S. Supreme Court. “The Sixth Circuit’s decision is extremely disappointing for Arkansans because it will force them to get the shot or lose their jobs,” said Arkansas Attorney General Leslie Rutledge, a Republican.

South Carolina Attorney General Alan Wilson, who also is chairman of the Republican Attorneys General Association, said in a Twitter message Friday that he was confident the mandate could be stopped. The vaccine requirement would apply to companies with 100 or more employees. Under the rules, workers who are not fully vaccinated would have to wear masks and be subject to weekly COVID-19 tests. There would be exceptions, including for those who work outdoors or only at home.

The rule is separate from other vaccine mandates announced by the administration of US President Joe Biden that apply to federal government contractors and workers in health care facilities that receive funding from Medicaid or Medicare. All the rules are under assault from conservatives and have been paused in at least some parts of the country.

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