

Arizona AG sues over Biden vaccine mandate, calls it act of ‘unbridled power’

Arizona’s attorney general on Tuesday filed the first lawsuit challenging the Biden administration’s new mandate for most U.S. workers to get vaccinated against COVID-19, calling the upcoming emergency rule an unconstitutional exercise of “unbridled power.”

The complaint argues that President Joe Biden’s directive instructing the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) to adopt and enforce the rule exceeds his executive authority and violates the Constitution’s equal protection clause through discrimination. As announced, the rule requires U.S. workers to get vaccinated but does not specifically require undocumented immigrants crossing the border to get inoculated.

“The executive branch has adopted an unconstitutional policy of favoring aliens that have unlawfully entered the United States over actual U.S. citizens, both native and foreign born,” the lawsuit states.

“Their rights to choose to be vaccinated — or not — command the unadulterated respect of defendants,” the lawsuit states. “Those of U.S. citizens: not so much.”

Biden’s new, yet-to-be-seen rule, called an emergency temporary standard, is expected to apply specifically to private sector U.S. employers with more than 100 workers once OSHA adopts it. Workers will be required to either get vaccinated or submit to weekly testing for COVID-19.

The rule is projected to affect approximately 100 million U.S. workers and about two-thirds of U.S. employees, according to the White House. Federal employers and contractors would be required to get vaccinated, with no testing option alternative. If the rule is issued as announced by Biden on Thursday, workers will be required to comply, or risk losing their jobs.

During a press call Tuesday evening, Arizona Attorney General Mark Brnovich said the mandate violates constitutional principles of federalism and separation of

powers by overstepping the states' rights to manage public health, safety, and welfare.

"It's an unprecedented attempt by the federal government to impose something on the American people that clearly is not among the president's enumerated powers," Brnovich said.

Brnovich also claimed that Ronald Klain, the president's chief of staff, recognized the federal government's lack of authority to directly impose a mandate in his retweet of MSNBC anchor Stephanie Ruhle's post characterizing the move as a "work-around."

Stephanie Ruhle@SRuhle

OSHA doing this vaxx mandate as an emergency workplace safety rule is the ultimate work-around for the Federal govt to require vaccinations.

The lawsuit goes on to say that the Department of Homeland Security offers vaccination to non-U.S. citizens apprehended for unlawfully entering the U.S., though does not insist that they be vaccinated.

The legal theory is related to those anticipated as potential challenges by labor and employment lawyers. Because the standard has not yet been issued, the Arizona district court could rule that the lawsuit was filed prematurely and therefore lacks legal standing.

In its request for relief, the lawsuit asks that the district court declare that the administration lacks authority to both impose the vaccination mandate on U.S. citizens and lawful permanent residents, and to discriminate against U.S. citizens as compared to undocumented immigrants.

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