



BEFORE THE HOUSE COMMERCE & LABOR COMMITTEE
Testimony on House Bill 435
October 7, 2021

Chair Stein, Vice Chair Johnson, Ranking Member Lepore-Hagan, and members of the House Commerce and Labor Committee, my name is Keith Lake and I am the Vice President of Government Affairs for the Ohio Chamber of Commerce. I am here today to testify on House Bill 435 and the matter of vaccination-related policies.

The Ohio Chamber is the state's leading business advocate, and we represent thousands of companies that do business in Ohio. Our mission is to aggressively champion free enterprise, economic competitiveness and growth for the benefit of all Ohioans.

As you know, for the past 19 months or so, employers across Ohio have struggled with the fallout from the current pandemic. They have dealt with shut downs and the ensuing cashflow and financial difficulties, with the problem of how to encourage customers to return to their physical locations, with the difficulty of supply chain disruptions, and with the challenge of labor shortages. And, of course, from the very beginning of the pandemic and still to this day, with the need to ensure the health and safety of their employees, customers, and visitors.

Not only do employers have a legal obligation to provide a safe workplace for employees and customers, but health and safety measures are paramount to a business's profitability and survival, as well. A manufacturing facility, for example, that suffers a COVID outbreak amongst its workers could be forced to shut down production, idling the factory and making it impossible for the company to fill its orders, potentially putting it at financial risk.

Ultimately, employers know that the key to getting our economy fully back to normal is stopping the spread of the virus – and that they have a role in making sure this happens.

Therefore, employers have implemented numerous recommended or best-practice workplace safety standards. They have, and continue, to ensure distancing, to require face coverings, to have modified workstations and shift change patterns, to limit common space interaction and have staggered lunch and break times, and to have employees work remotely, perform daily symptom assessments, and quarantine if exposed. These are just some of the most common protocols.

A limited number have also implemented a requirement that employees be vaccinated against COVID-19, in some instances coupled with a requirement to be tested for the virus regularly if an employee chooses not to receive the vaccine.

All of these different health and safety measures are done for one reason: to keep the workplace safe and minimize the risk of exposure to the virus, in order to strengthen and speed our economic recovery. Businesses continue to do the best they can in responding to the many challenges and consequences of the COVID crisis. They don't need to be micro-managed by the government telling them how to best run their business.

Unfortunately, bills like HB 435 – or worse, HB 248 – interfere with employers' freedom to make decisions about protecting their workforce, and to develop the health and safety policies and practices that meet the needs of their individual workplaces. In short, they limit employers' freedom to operate their businesses.

As you consider HB 435 and potential changes to the bill, the Ohio Chamber urges you not to unnecessarily infringe upon the rights of Ohio's employers. One-size-fits-all government mandates that limit the ability of employers to set their own workplace policies are not the right approach. It is imperative that we let our businesses manage their workplaces free from government interference.

That would include not doing anything to upend Ohio's at-will employment doctrine. This doctrine is a two-way street. It allows employers to end an employment relationship at any time for almost any reason, and it also gives employees the same option: they have the freedom to walk away from a job at any time, for any reason.

Similarly, we urge you not to do anything that would set the dangerous employment law precedent of mandating a new class of protected individuals under Ohio's civil rights law based on a person's vaccination preferences, rather than their immutable

characteristics. It would also include not making exemptions to vaccinations overly broad, as current law already protects individuals who object to vaccination for legitimate medical or religious reasons.

In early September, President Biden announced that the Department of Labor is developing an emergency rule to require all employers with 100 or more employees to ensure their workforces are fully vaccinated or, alternatively, show a negative test at least once a week. Due to this still pending OSHA rule, the enactment of HB 435, or any legislation that prohibits unvaccinated employees from having to pay for COVID-19 testing, would substantially increase operating costs for many Ohio employers. If, as proposed by HB 435, Ohio were to prevent a business from passing along the cost of testing to employees who make the choice not to receive the vaccine, Ohio employers will see higher operating costs that businesses in other states will not face. This harms our business climate by making Ohio less competitive and makes it more difficult for Ohio companies to recover from the pandemic.

To be clear, we are also opposed to the Biden Administration's plan. By dictating that employers must mandate vaccinations, it limits employers' freedom to operate their businesses. Unfortunately, so do bills like HB 435. Both approaches represent an attempt to interfere with decisions that are most appropriately made by employers. One tells employers what they must do, the other what they cannot do. The Ohio Chamber has long been an advocate for allowing employers to manage their workplaces free of undue interference from all levels of government, whether that is at the federal level or the state level.

The success of businesses in Ohio depends, in part, on having the right to decide the most effective approaches for building and maintaining a healthy workplace. I urge you not to pass a bill that takes away any of these important employer rights. Thank you.