

Oppose HB 2021 & SB 1137: New ERISA Mandates

HB 2021 & SB 1137 expands all of Texas' costly prescription drug and pharmacy mandates to employers that are exempt through federal preemption (ERISA).

Texas employers exempt from state mandates, already provide quality coverage—they don't need government interference that increases their premiums and prescription drug costs.

Federal ERISA law protects big employer health plans, allowing them to offer the same benefits to employees across state lines so they don't have to comply with a patchwork of state regulations.

Employers already provide high quality, comprehensive coverage:



- **Big employers already offer the best health benefits** with lower deductibles, lower monthly premiums, and more robust coverage than small employers and individual market plans.
- **98% of large employers offer health benefits**, and 3 out of 4 employees cite health benefits as their reason for accepting a job.
- **86% of employees report they are happy** with their health coverage.

Who will bear the burden of these added costs?

- Employers will pay for these expensive mandates.
- For self-funded plans, insurers and PBMs only administer benefits and negotiate prices—they don't take on the risk of paying claims.

How bad are these mandates?

- **Disrupting employer coverage across state lines** is an administrative headache.
- Texas mandates are expensive:
 - **Forces employers to wait** a full year before switching out high-cost drugs for new, lower-cost generic options.
 - **Limits mail order** pharmacy incentives and options.
 - **Forces employers to have contracts** with higher cost pharmacies.
- Plus, any new proposed mandates would also apply to large employers if passed.

Employers, Business Groups and More: Speaking out against ERISA mandates



The Texas Association of Business & Texas Business Leadership Council Wrote a Letter in Opposition to HB 2021: February 21, 2023

- “By preempting ERISA, HB 2021 hurts employer’s ability to offer quality, affordable health care and prescription options that best fit the needs of their employees.” — TAB CEO Glenn Hamer.
- “If this bill were to become law, it would increase prescription drug costs for millions of Texas employees. This would be costly for Texas employers, who would be forced to comply with a range of different state laws and regulations.”
- “It is a TAB top legislative priority to preserve employee, employer and health plan benefits of the Employee Retirement Income Security Act (ERISA) by opposing any attempt to erode the pro-business environment that makes the State of Texas the envy of the nation.”

TLR Texans for Lawsuit Reform (TLR) Spoke Up Against ERISA Preemption: January 2023

- “Ending or eroding ERISA preemption will adversely impact labor markets, disadvantage employees based on where they live or work, cause employers to cut back on benefit coverage and raise the cost of health insurance and retirement plans.”
- “The Texas Legislature should protect ERISA preemption, not weaken it.”

HOBBY LOBBY Hobby Lobby Testified to the National Association of Insurance Commissioners (NAIC): December 2022

- “As an employer serving 45,000 employees across 47 states, Hobby Lobby has historically relied on the uniformity afforded by ERISA preemption to govern its health and welfare plans.”
- Hobby Lobby further argued against state laws and regulations that are “specifically targeting self-funded employers (**under the cloak of laws and regulations supposedly targeting ‘PBMs’**).”

Bottom Line: HB 2021 & SB 1137 are unnecessary and hurt the health benefits of Texas’ biggest job creators.