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New California Law Prohibits Employer Captive Audience Meetings

On September 27, 2024, Governor Gavin Newsome signed into law a bill that will prohibit employers from holding “captive audience” meetings with employees on certain subjects. SB 399, which is referred to as the “California Worker Freedom from Employer Intimidation Act,” limits an employer’s ability to communicate with employees regarding “political” or “religious” matters. “Political matters” are very broadly defined to include elections for political office and union related issues.

The law defines “captive audience” meetings as “mandatory meetings during work hours, organized by an employer where employees are paid for their time attending the meeting and are required to attend or face discipline.” The act requires that employers pay any employee who works during the meeting but declines to attend it.

Effective January 1, 2025, if an employer is found to have required employee attendance at such meetings under threat of discharge, discipline, or any other adverse employment action, they will be subject to a \$500 penalty per employee per violation. Further, the law permits employees to bring a private lawsuit against their employer for alleged violations and it expressly authorizes the recovery of potential punitive damages.

Business groups have filed lawsuits challenging comparable captive audience bans in other states, arguing the bans violate employers’ First Amendment rights and the National Labor Relations Act. Business groups in California are expected to challenge the new law on similar grounds.

What This Means for Employers:

The new law prohibits employers from forcing employee participation in meetings regarding a broad spectrum of categories. As such, employers should consult with legal counsel before holding any meeting that might be considered a “captive audience” meeting. Further, employers should train supervisors who call and/or hold meetings to ensure compliance with the new law. If employers do decide to hold voluntary “captive audience” meetings, they should update their handbook to underscore the voluntary nature of the meetings. Employers must clearly communicate with employees the purpose of any such meeting and emphasize that such meetings are voluntary.

The goal of this article is to provide employers with current labor and employment law information. The contents should neither be interpreted as, nor construed as legal advice or opinion. The reader should consult with Barsamian & Moody at (559) 248-2360 for individual responses to questions or concerns regarding any given situation.

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