Washington state employers are now banned from holding "captive audience" meetings.

So-called captive audience meetings are mandatory meetings held by employers during work hours to address activities protected by Section 7 of the National Labor Relations Act (NLRA). Some employers hold these meetings to express their opposition to employees choosing to be represented by a union.

The Employee Free Choice Act (SB 5778), which went into effect June 6, 2024, effectively quashes such meetings by prohibiting employers from taking adverse employment action against employees who refuse to attend or from threatening such action to secure attendance at meetings where the "primary purpose" is "to communicate the employer's opinion concerning religious or political matters." The act also bans retaliating against employees who report violations.

**A Departure From Relevant Law**

The new law deviates from both the NLRA and relevant precedent. For decades, employers have been able to hold "captive audience" events because the meetings were considered protected employer speech. Specifically, the NLRA states, "the expressing of any views, argument, or opinion … shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act … if such expression contains no threat of reprisal or force or promise of benefit."

However, Jennifer Abruzzo, general counsel of the National Labor Relations Board, is currently trying to make such meetings illegal, as she views captive audience meetings as inherently coercive, focusing on the threat of discipline for nonattendance and the employees' economic dependence on keeping their jobs.

**Is This a New Trend?**

Washington is the seventh state to ban "captive audience" meetings, following Connecticut, Maine, Minnesota, New York, Oregon, and New Jersey. Meanwhile, lawmakers have proposed similar legislation in many other states, including Illinois, California, and Colorado. These state bans may be short-lived. Business groups have already filed lawsuits in Minnesota and Connecticut, alleging the laws are preempted by the NLRA and violate employers' constitutional free speech and equal protection rights.

**Other Key Provisions and Exceptions**

Like other states, Washington's captive audience ban is not limited to the topic of unions. Rather, it more broadly applies to mandatory meetings where employers express views on "political matters" and "religious matters." The terms are not narrowly defined. "Political matters" includes political elections, parties, and new legislation. "Religious matters" means "relating to religious affiliation and practice, and the decision to join or support any religious organization or association."

However, the new law explicitly does not prevent employers from engaging in the following:

- Speaking to employees about information they are required by law to share.
- Holding meetings about political or religious matters where attendance is voluntary.
- Requiring mandatory attendance for meetings that are necessary for employees to perform their job duties.
- Requiring employees to attend workplace harassment or discrimination prevention training.

**Takeaways for Employers**

Failure to comply with the new law exposes employers to potential civil actions and may entitle former employees to reinstatement, back pay, and reestablishment of benefits.

To ensure compliance, employers should update their employee handbook and policies. They should also educate management on prohibited conduct. Lastly, employers should give employees advance notice about the subject matter and purpose of meetings and clearly communicate whether attendance is mandatory or voluntary.

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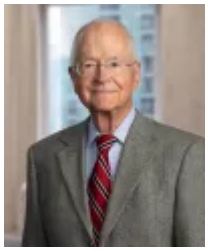


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