Updates
February 03, 2025
California Senate Bill 399: Captive Audience Law Challenged in Federal Lawsuit

As of January 1, 2025, Senate Bill (SB) 399, the California Worker Freedom from Employment Intimidation Act (the Act), prohibits employers from subjecting or threatening to subject employees to discrimination, retaliation, termination, or any other adverse action for declining to attend an employer-sponsored meeting or declining to participate in, receive, or listen to any communications with the employer or its agents where the purpose is to communicate the employer's opinion about religious or political matters, including meetings regarding union organization.

Under certain circumstances, religious organizations, political parties, nonprofits, and/or educational institutions are exempt from the Act. Further, the Act is not intended to prevent an employer from requiring employees to undergo training to comply with the employer's legal obligations. Employees who are working during the time of the meeting or event yet decline to attend must still be paid while the meeting is being held. Employers who violate the Act are liable for a civil penalty of $500 per employee for each violation.

On December 31, 2024, the California Chamber of Commerce and the California Restaurant Association filed a federal lawsuit in the U.S. District Court for the Eastern District of California seeking to enjoin SB 399's enforcement. In the complaint, the plaintiffs assert that SB 399 is unconstitutional, as it infringes on employer's free speech rights and right to assembly and is preempted by the National Labor Relations Act (NLRA). Specifically, the lawsuit contends that the Act unlawfully regulates the content of an employer's communications, as it seeks to restrict speech relating to political and religious matters. Furthermore, plaintiffs argue that the bill is preempted by the NLRA and conflicts with Section 8(c) of NLRA, which protects employers' right to freedom of speech.

As this lawsuit progresses, companies should consider the following:

- California employers should reassess meeting policies and practices with experienced counsel. Attendance at meetings that involve religious, labor relations, or political matters should be voluntary, and employers

should consider addressing questions on these topics via other means.
- California employers should work with experienced counsel to ensure that frontline supervisors and managers are trained on how to address workplace issues involving religious, unionization, or political matters.
- Without implicating coercion or punishment, California employers should consider ways for employees to acknowledge the voluntary nature of meeting attendance.

California employers should monitor developments in this area, and companies with questions concerning SB 399 should contact experienced counsel.

Authors

Explore more in

Labor & Employment

Related insights

Update

President Trump Creates “Make America Healthy Again” Commission

Update

FERC Meeting Agenda Summaries for February 2025