

PUBLICATION

New Tennessee Law Permits English-Only Policies

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On June 23, 2010, a bill signed by Tennessee Governor Phil Bredesen amended the Tennessee Human Rights Act to allow English-only policies in the workplace under certain circumstances. The new section of the Tennessee Human Rights Act states:

It is not a discriminatory practice for an employer to institute a policy in the employer's workplace that requires all employees to speak only in English at certain times when the employer has a legitimate business necessity for such a policy, including but not limited to the safe and efficient operation of the employer's business

The limiting language of the statute – "at certain times," "legitimate business necessity," and "safe and efficient operation" – should be carefully considered by employers in Tennessee. An earlier version of the law specifically articulated the legitimate business necessity provision to mean communications with customers, co-workers, or supervisors who speak English and in emergencies or other situations in which employees must speak a common language to promote and ensure safety. The final version signed by Governor Bredesen does not contain this specific language and does not otherwise define the term "legitimate business necessity."

An earlier version of the law also applied to applicants as well as employees. However, the final version signed by Governor Bredesen permits English-only policies to extend to current employees, not applicants. Before adopting an English-only policy, the new law requires employers in Tennessee to give employees notice of the new policy and the potential consequences for violating it.

Tennessee employers should exercise extreme caution when adopting an English-only policy permitted by the new law. As with any law dealing with "legitimate business necessity," any English-only policy should be narrowly tailored. Employers should not limit the language of their employees during breaks or other non-working times, as such a limitation would be difficult to encompass within a legitimate business necessity. The current political environment, including the controversy created by Arizona's new immigration law, demands that Tennessee employers weigh carefully the benefits and consequences of adopting an English-only policy permitted by the new law.

If you have any questions about this new Tennessee law or any other employment-related issue, please contact one of our nearly 70 Labor & Employment attorneys, located in *Birmingham, Alabama; Atlanta, Georgia; Baton Rouge, Mandeville and New Orleans, Louisiana; Jackson, Mississippi; and Chattanooga, Johnson City, Knoxville, Memphis and Nashville, Tennessee.*

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