



# House of Representatives

General Assembly

**File No. 327**

*February Session, 2004*

Substitute House Bill No. 5447

*House of Representatives, March 30, 2004*

The Committee on Labor and Public Employees reported through REP. RYAN, K. of the 139th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING DISTRIBUTION OF LITERATURE TO EMPLOYEES ON EMPLOYER PREMISES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) No employer shall  
2 prohibit an individual or group of individuals from entering a place of  
3 public accommodation for the purpose of distributing literature to the  
4 employees or patrons of the employer if (1) the literature is distributed  
5 by an individual or group of individuals with a bona fide interest in  
6 communicating with the employees or patrons; (2) the employer has,  
7 during the employees' regular working hours or during normal  
8 business hours, communicated or expressed a position to the  
9 employees or patrons about issues that the individual or group of  
10 individuals wishes to counter or address, provided the issues are not  
11 directly related to a service or product of the employer's business; and  
12 (3) the distribution of such literature to the employees or patrons at a  
13 location adjacent to or near the place of public accommodation would

14 (A) expose the individual, group of individuals, employees or patrons  
15 to a risk of physical injury, including, but not limited to, injury from  
16 passing motorists, (B) require the employees or patrons to stop a car on  
17 a public highway or public road or take some other action making the  
18 voluntary receipt of the literature difficult or disruptive to traffic, or  
19 (C) likely result in employees or patrons of an unrelated business or  
20 entity being asked to receive the literature in order to ensure that the  
21 intended recipients actually receive the literature. For purposes of this  
22 section, "employer" means an individual, corporation, partnership or  
23 unincorporated association, and "place of public accommodation"  
24 means any establishment that caters or offers its services or facilities or  
25 goods to the general public.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>

**LAB**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

This bill, which prohibits employers, under certain conditions, from denying access to their business to individuals to distribute literature to the employer's employees or patrons, has no fiscal impact to the state.

**OLR Bill Analysis**

sHB 5447

**AN ACT CONCERNING DISTRIBUTION OF LITERATURE TO EMPLOYEES ON EMPLOYER PREMISES****SUMMARY:**

This bill prohibits employers, under certain conditions, from denying access to their business to individuals or groups to distribute literature to the employer's employees or patrons (see BACKGROUND). This prohibition applies to any "place of public accommodation," which the bill defines as any establishment that caters or offers its services, facilities, or goods to the general public.

The bill prohibits the employer from asserting his property rights and banning outside groups from distributing literature if the following three conditions are met:

1. the person or group distributing the literature has a legitimate interest in communicating with the employees or patrons;
2. the employer, during the employees' regular working hours, has expressed a position to the employees or patrons about issues that the individual or group wishes to counter or address, provided the issues are not directly related to a service or product of the employer's business; and
3. distributing the literature to the employees or patrons at a location adjacent to or near the employer's business would be unsuitable for one of three reasons.

A literature distribution on adjacent or nearby property is not suitable if it would (1) expose the individual, group, employees, or patrons to a risk of physical injury, including, but not limited to, injury from passing motorists; (2) require the employees or patrons to stop a car on a public highway or public road or take some other action making the voluntary receipt of the literature disruptive to traffic; or (3) likely result in employees or patrons of an unrelated business or entity being asked to receive the literature in order to ensure that the intended recipients actually receive it.

EFFECTIVE DATE: October 1, 2004

## **BACKGROUND**

### ***National Labor Relations Act (NLRA)***

This is the federal law that governs union organizing and collective bargaining rights in the private sector and delineates what is an unfair labor practice. It also created the National Labor Relations Board to rule in specific instances about what constitutes an unfair labor practice.

### ***U.S. Supreme Court Literature Distribution Case***

In general, employers may prohibit the distribution of literature or other solicitations from taking place on their property.

In 1992, the U.S. Supreme Court ruled (1) that the NLRB did not have sufficient grounds when it ruled that an employer must allow non-employee union organizers onto an employer's (Lechmere's) property to distribute union literature and (2) that Lechmere did not commit an unfair labor practice by banning these organizers from the privately-owned, publicly-used Lechmere parking lot (*Lechmere, Inc. v. NLRB*, 502 U.S. 527 (1992)). The Court said the organizers had other means to contact the employees for organizing purposes and therefore there was not sufficient reason for the NLRB to infringe on the business owner's property rights to accommodate the organizers. The ruling, which stands today, was based on a union organizing drive in Newington.

## **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 7      Nay 5