

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 22-24—sSB 163
Judiciary Committee

AN ACT PROTECTING EMPLOYEE FREEDOM OF SPEECH AND CONSCIENCE

SUMMARY: This act generally prohibits employers from disciplining or discharging (i.e., penalizing) an employee or threatening to do so because the employee refused to attend employer-sponsored meetings, listen to speech, or view communications primarily intended to convey the employer’s opinion about religious or political matters, including decisions to join labor organizations (i.e., “captive audience meetings”). The prohibition applies to private-sector employers, the state, and its political subdivisions, and it covers meetings with the employer or its agent, representative, or a designee.

The act also expands a law that prohibits employers from penalizing employees for exercising their First Amendment rights under the U.S. Constitution, or similar rights under the Connecticut Constitution, to also prohibit employers from threatening to penalize employees for doing so. By law and unchanged by the act, employees may exercise these rights as long as it does not substantially or materially interfere with their bona fide job performance or working relationship with their employer.

The act makes certain exceptions to both its prohibition on penalizing employees for refusing to attend captive audience meetings and the law’s prohibition on penalizing employees for exercising their constitutional rights. Among other things, these exceptions explicitly allow employers to communicate information required by law or that the employees need to perform their jobs. It also exempts certain religious organizations’ speech on religious matters made to their own employees.

In addition, the act changes the enforcement provision that applies to the law on employee constitutional rights by limiting potential awards to lost wages or compensation, with no punitive damages. It also applies this enforcement mechanism to the act’s prohibition on penalizing employees for refusing to attend captive audience meetings. Employers who violate the act’s provisions are also liable for a \$300 civil penalty imposed by the Department of Labor (CGS § 31-69a).

EFFECTIVE DATE: July 1, 2022

POLITICAL AND RELIGIOUS MATTERS

The act prohibits employers from penalizing employees for refusing to attend employer-sponsored meetings, listen to speech, or view communications primarily intended to convey the employer’s opinion about religious or political matters. Under the act, “political matters” relate to (1) elections for political office; (2)

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political parties; (3) proposals to change legislation or regulation; and (4) decisions to join or support a political party or political, civic, community, fraternal, or labor organization. “Religious matters” relate to (1) religious affiliation and practice and (2) decisions to join or support a religious organization or association.

EXEMPTIONS

The act allows exceptions to both its prohibition on penalizing employees for refusing to attend captive audience meetings and the law’s prohibition on penalizing employees for exercising certain constitutional rights. It explicitly allows:

1. an employer to communicate to employees information (a) required by law, but only to the extent of the legal requirement, or (b) that the employees need to perform their job duties;
2. a higher education institution to meet or communicate with employees as part of coursework, a symposium, or an academic program at the institution;
3. voluntary, casual conversations between employees or between an employee and an employer’s agent, representative, or designee; and
4. a requirement that is limited to the employer’s managerial and supervisory employees.

Under certain circumstances, the act also creates an exemption for a religious corporation, entity, association, education institution, or society that is exempt from (1) the federal Civil Rights Act’s prohibition of religious discrimination in employment or (2) the state’s prohibitions on discriminatory employment practices and sexual orientation discrimination under the Connecticut Human Rights Act and related contracting provisions. The exemption applies to speech on religious matters to employees who perform work connected with performing the organizations’ activities.

ENFORCEMENT

Prior law made employers that penalized employees for exercising certain constitutional rights liable for damages, including punitive damages, and reasonable attorney’s fees. The act limits the potential liability in these cases to the full amount of gross lost wages or compensation, with costs and reasonable attorney’s fees, but with no punitive damages or other unspecified damages. It also extends these liability provisions to employers who (1) penalize employees or threaten to do so for refusing to attend, listen to, or watch a captive audience meeting or (2) threaten to penalize employees for exercising their First Amendment rights. As under existing law, a court may award the employer costs and reasonable attorney’s fees if it determines that the action was brought without substantial justification.

By law, employers who violate the act’s provisions are also liable to the Department of Labor for a \$300 civil penalty (CGS § 31-69a).