

Introduced by Senator YeeFebruary 24, 2009

An act to add Section 51.15 to the Civil Code, relating to civil rights.

LEGISLATIVE COUNSEL'S DIGEST

SB 242, as introduced, Yee. Civil rights: language restrictions.

The Unruh Civil Rights Act generally prohibits business establishments from discriminating on the basis of sex, race, color, religion, ancestry, national origin, disability, or medical condition. The act provides civil remedies for violations of its provisions. Under the California Fair Employment Housing Act, it is an unlawful employment practice for an employer to adopt or enforce a policy that prohibits the use of any language in the workplace, except if that policy is justified by business necessity, as defined, and prescribed notice of the policy and consequences for violation of the policy is given to employees.

This bill would make it a violation of the Unruh Civil Rights Act to adopt or enforce a policy that limits or prohibits the use of any language in a business establishment, unless the language is justified by a business necessity, as defined, and notification has been provided of the circumstances and the time when the language restriction is to be observed and of the consequences for its violation. The bill would define business necessity to require, among other things, that the language restriction is necessary to the safe and efficient operation of the business and that an equally effective, but less discriminatory, alternative practice does not exist. The bill would provide for an award of damages, and attorney's fees as may be determined by the court, for a violation of its provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 51.15 is added to the Civil Code, to read:
2 51.15. (a) It is a violation of Section 51 to adopt or enforce a
3 policy that limits or prohibits the use of any language in a business
4 establishment, unless both of the following conditions exist:
5 (1) The language restriction is justified by a business necessity.
6 For purposes of this section, “business necessity” means an
7 overriding legitimate business purpose for which all of the
8 following are true:
9 (A) The language restriction is necessary to the safe and efficient
10 operation of the business.
11 (B) The language restriction effectively fulfills the business
12 purpose it is supposed to serve.
13 (C) An alternative practice to the language restriction that would
14 accomplish the business purpose equally well with a lesser
15 discriminatory impact does not exist.
16 (2) Notification has been provided of the circumstances and the
17 time when the language restriction is required to be observed and
18 of the consequences for its violation.
19 (b) In an action pursuant to this section, remedies shall be
20 awarded as provided in subdivision (a) of Section 52.
21 (c) Nothing in this section shall be construed to limit application
22 of any other remedies or rights provided under the law.