

Senate Bill No. 111

Passed the Senate August 15, 2011

Secretary of the Senate

Passed the Assembly July 11, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 111, 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 and 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 requires, limits, or prohibits the use of any language in or with a business establishment, unless the policy is justified by a business necessity, as defined, and notification has been provided to persons subject to the language restriction or requirement of the circumstances and the time when the language restriction or requirement 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 or requirement is necessary for 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.

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

SECTION 1. Section 51.15 is added to the Civil Code, to read:

51.15. (a) It is a violation of Section 51 to adopt or enforce a policy that requires, limits, or prohibits the use of any language in

or with a business establishment, unless both of the following conditions exist:

(1) The language restriction or requirement is justified by a business necessity. For purposes of this section, “business necessity” means an overriding legitimate business purpose for which all of the following are true:

(A) The language restriction or requirement is necessary for the safe and efficient operation of the business.

(B) The language restriction or requirement effectively fulfills the business purpose it is supposed to serve.

(C) An alternative practice to the language restriction or requirement that would accomplish the business purpose equally well with a lesser discriminatory impact does not exist.

(2) Notification has been provided to persons subject to the language restriction or requirement of the circumstances and the time when the language restriction or requirement is required to be observed, and of the consequences for its violation.

(b) In an action pursuant to this section, remedies shall be awarded as provided in subdivision (a) of Section 52.

(c) This section does not impose an independent duty on any business establishment to advertise, serve, contract, or communicate with customers or potential customers in a particular language. However, nothing in this section shall be construed to alter, limit, or negate any duties, requirements, remedies, or rights provided under Section 51 or any other law.

(d) The prohibitions and defenses under this section are in addition to any other prohibitions and defenses under any other section or other law, and the rights and remedies provided by this section may be enforced independently of any other rights or remedies.

(e) This section does not apply to employment and does not expand, reduce, or otherwise affect the provisions of Section 12951 of the Government Code.

Approved _____, 2011

Governor