

HOUSE No. 1808

By Representative Lantigua of Lawrence and Senator Buoniconti, joint petition of William Lantigua and others relative to language restrictions in the workplace. Labor and Workforce Development.

The Commonwealth of Massachusetts

PETITION OF:

William Lantigua
Timothy J. Toomey, Jr.

Elizabeth A. Malia

In the Year Two Thousand and Seven.

AN ACT OPPOSING UNNECESSARY LANGUAGE RESTRICTIONS IN THE WORK-
PLACE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 151B, Section 1 of the General Laws, as
2 appearing in the 2004 Official Edition, shall be amended by adding
3 to the end thereof the following:—
4 24.) The term “Business necessity” shall mean an overriding
5 legitimate business purpose such that the language restriction is nec-
6 essary to the safe and efficient operation of the business, that the lan-
7 guage restriction effectively fulfills the business purpose it is
8 supposed to serve, and there is no alternative practice to the lan-
9 guage restriction that would accomplish the business purpose
10 equally well with a lesser discriminatory impact.

1 SECTION 2. Chapter 151B, Section 4 of the General Laws, as
2 appearing in the 2004 Official Edition, shall be amended by adding
3 to the end thereof the following:—
4 20.) (A) No person may be disqualified from entering into, pur-
5 suing a career in, advancing in, or otherwise enjoying the benefits of
6 employment or participation in any business, profession, vocation,
7 or employment because of national origin or ethnic origin.

8 (B) Except as provided for in part (C) of this subsection, it is an
9 unlawful employment practice for an employer, employment agency,
10 or labor organization to adopt or enforce a policy that limits or pro-
11 hibits the use of any language in any workplace, unless both of the
12 following conditions exist:

13 (1) The language restriction is justified by a business necessity.

14 (2) The employer, employment agency, or labor organization has
15 notified its employees of the circumstances and the time when the
16 language restriction is required to be observed and of the conse-
17 quences for violating the language restriction.

18 Except as provided for in part (C) of this subsection, it shall be
19 further presumed by the Commonwealth and its courts that any
20 policy adopted or enforced that limits or prohibits the use of any lan-
21 guage in any workplace adversely affects and demoralizes persons
22 who are speakers of that language, by creating an atmosphere of
23 inferiority, isolation, and intimidation. Enhancement of the esprit de
24 corps or level of comfort of employers, managers, co-workers, cus-
25 tomers, or clients who prefer not to hear a specific language being
26 spoken in their presence shall not be deemed to be a valid business
27 necessity under the meaning of this section, provided that an
28 employer may mandate that employees speak a specific language
29 when speaking to (rather than merely in the presence of) an
30 employer, manager, co-worker, customer, or client if such a mandate
31 meets the business necessity and notification provisions of this sub-
32 section.

33 Any policy which allows only a specific language to be used for
34 communication (e.g., an “English Only” rule) shall be construed by
35 the Commonwealth and its courts as a prohibition against the use of
36 all other languages.

37 (C) It shall be lawful for an employer, employment agency, or
38 labor organization to limit or prohibit employees from engaging in
39 personal (rather than business-related) communication while on the
40 job, without establishing business necessity, provided that such com-
41 munication is limited or prohibited equally for all languages, and
42 provided further that the employer, employment agency, or labor
43 organization has notified its employees of the circumstances and the
44 time when the personal communication restriction is required to be
45 observed and of the consequences for violating the personal commu-
46 nication restriction.