

## The New Tennessee "English Only" Law

On June 23, 2010, Governor Bredesen signed into law an amendment to the Tennessee Human Rights Act (THRA) which allows Tennessee employers to require their employees to speak English on the job whenever there is a "legitimate business or safety necessity." Such necessities include emergencies and other incidents where co-workers must speak a common language in order to promote or ensure safety or business efficiency. Unfortunately, the law does not define "legitimate business necessity" in further detail beyond "including, but not limited to, the safe and efficient operation of the employer's business." (Interestingly, this is the same language the EEOC uses in its guidelines to describe acceptable "English only" policies.) Under this amendment to the THRA, it is not a discriminatory practice for employers to institute policies requiring employees to speak English at these "necessary" times in the workplace. Employers implementing "English only" policies must provide notice to employees both of the policy and of the consequences of violating it.

Even though "English only" policies now have received this limited legal endorsement, employers still must exercise care to make sure they have a legitimate business reason for prohibiting an employee from speaking another language at work. Forbidding other languages "throughout the workplace" or "on company property" could be read to cover employee break areas, etc. and thus would be too broad to be permitted by this new amendment. Likewise, requiring "all employee co-worker communications" or "all employee customer communications" to be conducted in English could be deemed to be overly broad, as in some cases speaking a language other than English actually would better facilitate the employer's business operations, for instance, if a customer's primary language is not English.

All this law really allows employers to do is to circumscribe certain times and contexts in which they require "English only" to be used when they have a legitimate business purpose for such use.

The same bill which contained this "English only" provision also contained another provision which is not getting as much "press" as the "English only" one, but of which employers still should be aware. The bill signed into law by Governor Bredesen also made it law in Tennessee that employees who are volunteer rescue squad workers cannot be terminated for being late or missing work while attending to an emergency which began prior the time they were scheduled to report to work.

Interestingly, this second amendment to the THRA does not preclude employers from disciplining employees for such absences or from docking their pay. (Be aware of federal wage and hour laws regarding exempt employees when doing so, however.)

If you have any questions relating to this alert or any other Labor and Employment law issue, please feel free to contact [Stacie Caraway](#), [Sarah Maxwell](#) or any other attorney in the [Labor and Employment practice group](#) at Miller & Martin.

*The opinions expressed in this bulletin are intended for general guidance only. They are not intended as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance. Should you need assistance from a Miller & Martin attorney, please call 1-800-275-7303.*

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