

**SUBJECT:** Prohibiting language restrictions in the workplace

**COMMITTEE:** Economic Development — committee substitute recommended

**VOTE:** 9 ayes — Solis, Keffer, Clark, Deshotel, Homer, Luna, McClendon, Seaman, Yarbrough  
0 nays

**WITNESSES:** For — Felicia Escobar, National Council of La Raza; Rick Levy, Texas AFL-CIO; *Registered but did not testify:* Sam Guzman, Texas Association of Mexican American Chambers of Commerce  
Against — Ann Abrams Price, Texas Employment Law Council

**BACKGROUND:** Under federal regulations (29 C.F.R., 1606.7), an employer who prohibits an employee from speaking a language other than English at all times is presumed to violate Title VII of the Civil Rights Act of 1964. An employer may have a rule requiring an employee to speak only English at certain times if justified by business necessity. Employers must provide notice of the English-only rule. If an employer fails to notify its employees and makes an adverse employment decision against a person for violating the English-only rule, the Equal Employment Opportunity Commission (EEOC) considers the rule to be evidence of discrimination on the basis of national origin.  
  
Labor Code, ch. 21 provides for the execution of Title VII and prohibits discrimination on the basis of national origin. The Texas Commission on Human Rights may enforce the chapter by filing civil suits.

**DIGEST:** CSHB 243 would prohibit an employer from requiring an employee to speak only English, or only another language, in the workplace. An employer could require an employee to speak only a particular language if required by business necessity, including requiring an employee to speak to a customer in the language spoken by that customer.  
  
If an employer adopted a language requirement, the employer would have to notify employees of the requirement and of the consequences of violating it.

If an employer made an adverse employment decision against an employee for violating the language requirement and had failed to provide notice of the requirement, the imposition of the language requirement would be evidence of discrimination on the basis of national origin.

The bill would take effect September 1, 2001, and would apply only to a complaint filed with the Commission on Human Rights on or after that date.

**SUPPORTERS  
SAY:**

CSHB 243 would help to protect employees against discriminatory language-only policies in the workplace by prohibiting an employer from imposing a language requirement in the workplace unless justified by business necessity. Employees ought to have the right to a respectful, dignified workplace that allows them to speak their native language, provided that doing so does not interfere with business. Although federal law already protects this right, the EEOC is notoriously slow in investigating these kinds of complaints. Placing this protection in state law would make it easier for people who had been discriminated against to pursue complaints against an employer, while allowing businesses to impose language restrictions if honestly necessary to their business.

**OPPONENTS  
SAY:**

Current federal law requires an employee to demonstrate that an employment practice, including an English-only rule, has a disparate treatment or impact on the employee in order to prove discrimination. CSHB 243 would make it easier for a plaintiff to bring a case against an employer by making it unlawful to establish an English-only rule that had no justification in business necessity, even though no disparate treatment or disparate impact had been shown. English-only rules should be prohibited only if they result in actual harm to an employee.

This bill is unnecessary. Federal regulations already prohibit an employer from imposing an English-only workplace that is not justified by business necessity, and Labor Code, ch. 21 is set up to enforce federal law.

**NOTES:**

The committee substitute added the provision that would prohibit an employer from requiring an employee to speak only a particular language, rather than only English, and the provision that would allow an employer to require an employee to speak the language spoken by a customer.

The companion bill, SB 1698 by Barrientos, has been referred to the Senate Business and Commerce Committee.

A similar bill in the 76th Legislature, HB 2881 by Chavez, was reported favorably by the House Economic Development Committee but died in the House Calendars Committee.