

New York Enacts Laws on Captive Audience Meetings, Wage Theft, Gender Identity

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During a [busy term](#) at the New York Legislature, Governor Kathy Hochul signed legislation prohibiting captive audience meetings, categorizing wage theft as larceny, and expanding protection of “gender identity or expression” to interns.

Captive Audience Meetings

Governor Hochul signed into law the [captive audience bill](#) (S4982/A6604) a day after it reached her desk. The law went into effect immediately upon signing.

The new law prohibits an employer from disciplining employees who refuse to attend an employer-sponsored meeting, “the primary purpose of which is to communicate the employer’s opinion concerning religious or political matters.” The law defines “political matters” to include the decision on whether to support or join a labor organization.

In essence, the law prohibits employers from mandating its employees attend meetings in which the employer attempts to dissuade employees from unionizing.

Captive audience meetings have a long history of being protected employer speech under the National Labor Relations Act. Under the Act’s captive audience doctrine, an employer may hold mandatory employee meetings and speak to employees about unionization. An employer cannot threaten, punish, or promise benefits to employees during these meetings, as such action may violate Section 8(c) of the Act.

The new law makes it unlawful for an employer to refuse to hire, employ, or license or to discharge or otherwise discriminate against an individual over terms of employment because the individual refuses to attend an employer-sponsored meeting, listen to speech, or view communications where the primary purpose is to communicate the employer’s opinion concerning religious or political matters, including unionization.

New York is the fourth state to prohibit mandatory captive audience meetings. However, courts are considering whether captive audience bans are preempted by the Act. For instance, litigation is ongoing over Connecticut’s captive audience ban on the basis that the ban is preempted by Section 8(c) of the Act.

For more on captive audience legislation, see our article, [Legislation Banning ‘Captive Audience’ Meetings Enacted in Minnesota, Awaiting Enactment in New York](#).

Wage Theft

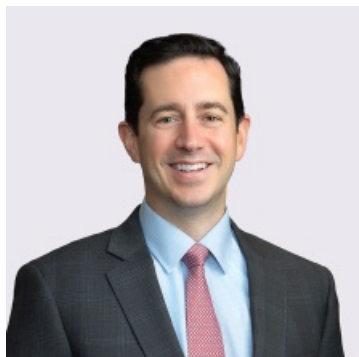
Governor Hochul also signed into law a [bill](#) (S2832-A/A154-A) intended to combat wage theft. This enactment amends the New York Penal Law to add wage theft to

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the types of activities included in the crime of larceny. The new law took effect immediately upon signing.

Under the new law, employers can be charged with larceny if they do not pay wages at the minimum wage rate and overtime rate, or the promised wage rate (if greater), to an employee for work performed. The law allows aggregation of all nonpayments or underpayments to one person from one person into one larceny count. The law also allows aggregation of all nonpayments or underpayments from a workforce (defined as a group of one or more persons who work in exchange for wages) into one larceny count.

Gender Identity or Expression

Governor Hochul signed a [bill](#) (S7382/A7355) adding “gender identity or expression” as a protected class for purposes of the New York State Human Rights Law’s prohibitions on discrimination against interns. The law went into effect immediately upon signing.

The enactment is consistent with other provisions of the New York Human Rights Law that extend these protections to employees.

If you have any questions regarding any of these legislative developments or any other workplace law issues, please do not hesitate to contact a Jackson Lewis attorney.