

# MARYLAND RETAILERS ALLIANCE

The Voice of Retailing in Maryland



## ***SB 576 (HB 233) Labor and Employment - Mandatory Meetings on Religious or Political Matters -Employee Attendance and Participation (Maryland Worker Freedom Act)***

**House Economic Matters Committee**

**February 19, 2025**

**Position:** Unfavorable

**Summary:** Prohibiting employers from taking certain adverse actions against an employee or applicant for employment because the employee or applicant declines to attend or participate in employer-sponsored meetings during which the employer communicates the opinion of the employer regarding religious matters or political matters.

**Written Comments:** We write to express strong opposition to the proposed laws that would restrict employers' ability to communicate with their employees on political and religious matters. These laws pose significant constitutional concerns and would have far-reaching consequences for employers' rights to free speech, the preemption of federal law, and the vagueness of their provisions.

### **Free Speech Concerns**

At the heart of this issue is the First Amendment, which guarantees the rights of free speech and assembly. The proposed laws effectively chill employers' speech by regulating the content of their communications with employees. These laws discriminate against employers' viewpoints on political matters by limiting their ability to express their opinions freely. Employers should be allowed to engage in open and robust discussions with their employees, including on issues that may relate to politics or religion, without fear of reprisal or legal consequences. Restricting this fundamental right undermines the very principles of free speech that are foundational to our democracy.

### **Preemption by the National Labor Relations Act (NLRA)**

These laws are preempted by the National Labor Relations Act (NLRA), which has long governed labor relations and safeguarded the rights of employers and employees. The NLRA comprehensively regulates labor relations and protects employers' rights to express their views on unionization to their employees. For decades, the NLRA has ensured that employers can communicate with employees about issues related to unionization and other matters that might affect the workplace. States do not have the authority to regulate in this area, as it would

conflict with the established framework of federal law. The proposed state laws would undermine the NLRA and create confusion for employers who must navigate conflicting state and federal regulations.

### **Vagueness and Uncertainty**

One of the most troubling aspects of these laws is their vagueness, particularly regarding the definition of “political matters.” The laws prohibit employers from disciplining or threatening to discipline employees who refuse to attend employer-sponsored meetings or hear opinions about political or religious topics. However, the laws fail to provide a clear definition of what constitutes “political matters.” This ambiguity creates uncertainty for employers, who would have no way of knowing whether their communications might violate the law. Without clear guidance, employers are left exposed to liability for actions that they may not even realize are prohibited, making it impossible for them to reasonably comply with these laws.

### **Precedent Set by the U.S. Supreme Court**

In 2008, the U.S. Supreme Court in *Chamber of Commerce v. Brown* reinforced the notion that the NLRA protects the First Amendment rights of employers. The Court recognized that the NLRA essentially “implements” the First Amendment by encouraging “free debate on issues dividing labor and management.” The Court emphasized that Congress and the National Labor Relations Board (NLRB) have expressly fostered the use of written and spoken word in labor disputes. The idea is to allow “uninhibited, robust, and wide-open debate,” which is critical to ensuring that both employers and employees can fully express their views. The proposed laws go against this precedent by curbing employers’ ability to engage in such debate freely, which would undermine the protections afforded by the NLRA.

### **Conclusion**

The proposed laws represent a significant overreach by the state and an infringement on the constitutional rights of employers. They are inconsistent with the protections granted under the First Amendment and the National Labor Relations Act. These laws also lack the clarity necessary to be reasonably enforceable, leading to confusion and potential legal risk for employers. We respectfully urge the committee to reconsider these measures and protect the fundamental rights of employers to communicate openly with their employees.

Thank you for your time and consideration of this important issue.