

Bill Targets Workers Who Speak No English

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Body

RICHMOND, Jan. 16 -- A Republican state senator from Fairfax County has introduced a proposal that would allow a boss to fire employees who don't **speak English** in the workplace, which would make them ineligible for unemployment benefits.

Sen. Ken Cuccinelli II said the law is needed because a growing number of employers in Northern Virginia are frustrated that some immigrants never learn **English**, although they said they would when they were hired.

"The point here isn't to be mean; the point is to allow circumstances to give employers their own ability to hire and fire people who may not **speak English**," Cuccinelli said.

Some Democrats and immigration rights activists said they were outraged at Cuccinelli, saying the **bill** demeans the 1 in 10 Virginians who were born outside the United States. They said Cuccinelli's proposal was aimed at new legal residents who aren't native **English** speakers. Illegal immigrants are already ineligible for unemployment benefits.

"This is the most mean-spirited piece of legislation I have seen in my 30 years down here," Senate Majority Leader Richard L. Saslaw (D-Fairfax) said.

Cuccinelli's **bill** is one of dozens this year that seek to address immigration and the growing influence of Hispanic culture in Virginia, including efforts to make **English** the state's official language.

Cuccinelli, who was narrowly reelected in November, said the **bill** is aimed at people who work in jobs in which they must interact with the public, such as sales clerks and receptionists.

State and national immigrant rights activists said the **bill**, as written, could result in some people being fired for **speaking** to a colleague during a break or over the phone to relatives in a language other than **English**, causing some critics to wonder whether the measure violates federal law prohibiting discrimination based on national origin.

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"Anyone who cares about employee rights and civil rights and any employer who cares about not getting sued should question this bill," said Raul Gonzales, legislative director of the National Council of La Raza, Latino civil rights group in Washington.

Cuccinelli, who says companies are increasingly hiring people without face-to-face interviews, said he is just trying to protect employers from paying higher taxes because of unemployment claims.

In Virginia, employers may fire anyone as long as they adhere to civil rights laws. But if someone receives unemployment benefits, their previous employer might have to pay higher taxes.

"It works like an insurance policy," said Coleman Walsh, chief administrative law judge for the Virginia Employment Commission. "If you don't have any accidents, your premiums don't go up. If you have accidents, you have to pay higher rates."

Cuccinelli said he drafted the bill after a business owner approached him last year and complained that his unemployment taxes rose after he fired someone who didn't learn English.

"They had an understanding the employee would improve their English capabilities, and that didn't happen," Cuccinelli said. "We are an at-will employment state, but there is a question about having to pay more unemployment insurance."

Terminated employees are ineligible for unemployment benefits if they fail a drug test, falsify a job application with respect to a criminal record, commit an act that causes the employer to lose his business license or miss too many days of work. A claim can also be denied if the employee violates a "reasonable company law" and has "a pattern of misconduct that shows a willful disregard for an employer's legitimate business interest," Walsh said.

Gonzales said Cuccinelli's bill is not needed because Equal Opportunity Commission guidelines give employers the right to terminate employees for their language skills if their jobs require extensive interaction with the public or a need to understand basic safety information.

Immigrant rights advocates say Cuccinelli's bill is too broad. It says "an employee's inability or refusal to speak English at the workplace, in violation of a known policy of the employer, constitutes misconduct."

Claire Guthrie Gastanaga, a lobbyist for the Virginia Coalition for Latino Organizations, said the bill would make it too easy to fire someone who is not a native speaker of English.

"This says, if they are on their break in the backroom, you can tell them they can't speak Spanish or German or you can fire them and also deny them unemployment," Gastanaga said.

Angela Kelley, director of the Immigration Policy Center, said Cuccinelli's bill shows how some Virginia lawmakers want to "take a bite at immigrants at all levels and hope they go away."

"People lose their language after they've been here a number of years, but it takes years. It doesn't take days," Kelley said.

Board of County Supervisors Chairman Corey A. Stewart (R-At Large), who last year pushed through an effort to cut off public services in Prince William for illegal immigrants, said Cuccinelli is tapping into the mounting public concern about illegal immigration.

"You hear that frustration a lot, especially up here in Northern Virginia," Stewart said. "I do understand the frustration that the general public and probably employers have with such a large portion of the workforce being unable or unwilling to learn English."

If people lose their jobs because of his bill, Cuccinelli said, they would just "have to get another job."

"If they can get one without speaking English," he said.

Graphic

IMAGE; By Gerald Martineau -- The Washington Post; Sen. Ken Cuccinelli II said his measure aims to protect Virginia employers.

IMAGE; By Robert A. Reeder For The Washington Post; Senate Majority Leader Richard L. Saslaw called Cuccinelli's **bill** "mean-spirited."

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