HB 477 - AS INTRODUCED
2017 SESSION
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HOUSE BILL 477
AN ACT relative to free speech on campuses in the university system and the community college system.


COMMITTEE: Education

ANALYSIS

This bill limits the ability of an institution within the university system or community college system to restrict a student's right to speak in a public forum.

Matter added to current law appears in bold italics. Matter removed from current law appears [in brackets and struckthrough.] Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

Explanation:
AN ACT relative to free speech on campuses in the university system and the community college system.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Section; State College and University System; Right to Speak in a Public Forum.

Amend RSA 187-A by inserting after section 16-b the following new section:


I. No institution within the university system of New Hampshire which accepts state funds shall restrict a student's right to speak, including verbal speech, holding a sign, or distributing fliers or other materials, in a public forum.

II. No institution within the university system of New Hampshire which accepts state funds shall restrict the time, place, and manner of noncommercial student speech that:

(a) Occurs in a public forum; and

(b) Is protected by the First Amendment to the United States Constitution, unless the speech substantially disrupts the functioning of the institution and the restrictions:

(1) Are reasonable;

(2) Are justified without reference to the content or viewpoint of the regulated speech;

(3) Are narrowly tailored to serve a significant institutional interest; and

(4) Leave open ample alternative channels for communication of the information.

III. Any restrictions on student speech made pursuant to paragraph II shall allow for members of the university community to spontaneously and contemporaneously assemble and distribute literature.

IV. In an action brought under this section, if the court finds that a violation of this section occurred, the court shall award the aggrieved person not less than $500 for the initial violation, plus $50 dollars for each day the violation remains ongoing, or injunctive relief for the violation, or both, and shall award reasonable court costs and reasonable attorney's fees.

V. An aggrieved person shall bring an action for a violation of this section within one year after the date the cause of action accrues. For the purpose of calculating the one-year limitation period, each day that the violation persists or each day that a policy in violation of this section remains in effect constitutes a new violation of this section and shall be considered a day that the cause of action has accrued.

VI. In this section, "public forum" means any open, outdoor area on the campus of a university or college.
VII. Nothing in this section shall be interpreted as limiting the right of student expression in other areas of campus other than a public forum, or the right of faculty to regulate speech inside the classroom.

2 New Section; Community College System of New Hampshire; Right to Speak in a Public Forum. Amend RSA 188-F by inserting after section 3-b the following new section:

188-F:3-c Right to Speak in a Public Forum.

I. No institution within the community college system of New Hampshire which accepts state funds shall restrict a student's right to speak, including verbal speech, holding a sign, or distributing fliers or other materials, in a public forum.

II. No institution within the community college system of New Hampshire which accepts state funds shall restrict the time, place, and manner of noncommercial student speech that:

(a) Occurs in a public forum; and

(b) Is protected by the First Amendment to the United States Constitution, unless the speech substantially disrupts the functioning of the institution and the restrictions:

(1) Are reasonable;

(2) Are justified without reference to the content or viewpoint of the regulated speech;

(3) Are narrowly tailored to serve a significant institutional interest; and

(4) Leave open ample alternative channels for communication of the information.

III. Any restrictions on student speech made pursuant to paragraph II shall allow for members of the college community to spontaneously and contemporaneously assemble and distribute literature.

IV. In an action brought under this section, if the court finds that a violation of this section occurred, the court shall award the aggrieved person not less than $500 for the initial violation, plus $50 dollars for each day the violation remains ongoing, or injunctive relief for the violation, or both, and shall award reasonable court costs and reasonable attorney's fees.

V. An aggrieved person shall bring an action for a violation of this section within one year after the date the cause of action accrues. For the purpose of calculating the one-year limitation period, each day that the violation persists or each day that a policy in violation of this section remains in effect constitutes a new violation of this section and shall be considered a day that the cause of action has accrued.

VI. In this section, "public forum" means any open, outdoor area on the campus of a university or college.

VII. Nothing in this section shall be interpreted as limiting the right of student expression in areas of campus other than a public forum, or the right of faculty to regulate speech inside the classroom.

3 Effective Date. This act shall take effect 60 days after its passage.