

H. B. 2852

(By Delegate Hunt (By Request))

[Introduced March 6, 2013; referred to the

Committee on Energy, Industry and Labor, Economic Development and

Small Business then the Judiciary.]

A BILL to amend and reenact §5-11-3 of the Code of West Virginia, 1931, as amended, relating generally to the West Virginia Human Rights Act; defining an employer for purposes of the act as employing one or more person(s).

Be it enacted by the Legislature of West Virginia:

That §5-11-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 11. HUMAN RIGHTS COMMISSION.

§5-11-3. Definitions.

When used in this article:

(a) The term "person" means one or more individuals, partnerships, associations, organizations, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers and other organized groups of

1 persons;

2 (b) The term "commission" means the West Virginia Human Rights
3 Commission;

4 (c) The term "director" means the executive director of the
5 commission;

6 (d) The term "employer" means the state, or any political
7 subdivision thereof, and any person employing ~~twelve~~ one or more
8 ~~person~~ persons within the state for twenty or more calendar weeks
9 in the calendar year in which the act of discrimination allegedly
10 took place or the preceding calendar year: *Provided*, That such
11 terms shall not be taken, understood or construed to include a
12 private club;

13 (e) The term "employee" shall not include any individual
14 employed by his or her parents, spouse or child;

15 (f) The term "labor organization" includes any organization
16 which exists for the purpose, in whole or in part, of collective
17 bargaining or of dealing with employers concerning grievances,
18 terms or conditions of employment or for other mutual aid or
19 protection in relation to employment;

20 (g) The term "employment agency" includes any person
21 undertaking, with or without compensation, to procure, recruit,
22 refer or place employees. A newspaper engaged in the activity of
23 advertising in the normal course of its business shall not be
24 deemed to be an employment agency;

1 (h) The term "discriminate" or "discrimination" means to
2 exclude from, or fail or refuse to extend to, a person equal
3 opportunities because of race, religion, color, national origin,
4 ancestry, sex, age, blindness, disability or familial status and
5 includes to separate or segregate;

6 (I) The term "unlawful discriminatory practices" includes only
7 those practices specified in section nine of this article;

8 (j) The term "place of public accommodations" means any
9 establishment or person, as defined herein, including the state, or
10 any political or civil subdivision thereof, which offers its
11 services, goods, facilities or accommodations to the general
12 public, but shall not include any accommodations which are in their
13 nature private. To the extent that any ~~penitentiary~~, correctional
14 facility, detention center, regional jail or county jail is a place
15 of public accommodation, the rights, remedies and requirements
16 provided by this article for any violation of subdivision (6),
17 section nine of this article shall not apply to any person other
18 than: (1) Any person employed at a ~~penitentiary~~ correctional
19 facility, detention center, regional jail or county jail; (2) any
20 person employed by a law-enforcement agency; or (3) any person
21 visiting any such employee or visiting any person detained in
22 custody at such facility;

23 (k) The term "age" means the age of forty or above;

24 (l) For the purpose of this article, a person shall be

1 considered to be blind only if his central visual acuity does not
2 exceed twenty/two hundred in the better eye with correcting lenses,
3 or if his visual acuity is greater than twenty/two hundred but is
4 occasioned by a limitation in the fields of vision such that the
5 widest diameter of the visual field subtends an angle no greater
6 than twenty degrees; and

7 (m) The term "disability" means:

8 (1) A mental or physical impairment which substantially limits
9 one or more of such person's major life activities. The term
10 "major life activities" includes functions such as caring for one's
11 self, performing manual tasks, walking, seeing, hearing, speaking,
12 breathing, learning and working;

13 (2) A record of such impairment; or

14 (3) Being regarded as having such an impairment.

15 For the purposes of this article, this term does not include
16 persons whose current use of or addiction to alcohol or drugs
17 prevents such persons from performing the duties of the job in
18 question or whose employment, by reason of such current alcohol or
19 drug abuse, would constitute a direct threat to property or the
20 safety of others.

NOTE: The purpose of this bill is to include in the definition
of an employer, for purposes of the West Virginia Human Rights Act,
any person employing one or more person(s).

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.