

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

Senate Bill 302

BY SENATORS HAMILTON, BEACH, LINDSAY, CAPUTO, AND

IHLENFELD

[Originating in the Committee on the Judiciary;

reported on March 29, 2021]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §47-11A-15, relating to unfair trade practices; prohibiting pricing goods and
3 services on the basis of gender; authorizing the Attorney General to bring civil action on
4 behalf of residents of the state against offenders; and providing definitions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11A. UNFAIR TRADE PRACTICES.

§47-11A-15. Pricing goods and services on the basis of gender prohibited.

1 (a)(1) It is unlawful for any person to sell, or offer for sale, in West Virginia any two
2 consumer products from the same manufacturer that are substantially similar if the products are
3 priced differently based on the gender of the individuals for whose use the products are intended
4 or marketed.

5 (2) It is unlawful for any person to sell, or offer for sale, in West Virginia any services that
6 are substantially similar if the services are priced differently based on the gender of the individuals
7 for which the services are performed, offered, or marketed.

8 (b) In any case in which the Attorney General of West Virginia has a reason to believe that
9 an interest of the residents of West Virginia have been or is adversely affected by a violation of
10 this section, the Attorney General may bring a civil action on behalf of the residents of the state
11 in an appropriate circuit court of the state:

12 (1) To enjoin further violation of this section by the defendant;

13 (2) To compel compliance with this section; or

14 (3) To obtain damages, restitution, or other compensation on behalf of residents of the
15 state.

16 (c) As used in this section:

17 (1) "Substantially similar products" means two consumer products are substantially similar
18 if there are no substantial differences in the materials used in the product, the intended uses of
19 the product, and the functional design and features of the product. A difference in coloring among

20 any consumer products shall not be construed as a substantial difference for purposes of this
21 section.

22 (2) "Substantially similar services" means two services are substantially similar if there is
23 no substantial difference in the amount of time to provide the services, the difficulty in providing
24 the services, or the cost of providing the services.

25 (3) "Consumer products" means products that are bought by individuals or households for
26 personal use.