

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3400

By Delegates Horst, Householder, Hardy, Phillips,
Mallow, Summers, Foster, Espinosa, Ward, Howell,
and Kimble

[Introduced ; referred
to the Committee on the]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §5A-13-1 and §5A-13-2, all relating to creating the Firearms Industry
3 Nondiscrimination Act; providing definitions; specifying applicability, prohibiting state
4 contracts without written verification of compliance; and providing exceptions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13. FIREARMS INDUSTRY NONDISCRIMINATION ACT.

§5A-13-1. Definitions.

1 As used in this article:

2 (1) "Ammunition" means a loaded cartridge case, primer, bullet, or propellant powder with
3 or without a projectile.

4 (2) "Company" means a for-profit organization, association, corporation, partnership, joint
5 venture, limited partnership, limited liability partnership, or limited liability company, including a
6 wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities
7 or associations that exists to make a profit. The term does not include a sole proprietorship.

8 (3) "Discriminate against a firearm entity or firearm trade association":

9 (A) means, with respect to the entity or association, to:

10 (i) Refuse to engage in the trade of any commodities or services with the entity or
11 association based solely on its status as a firearm entity or firearm trade association.

12 (ii) Refrain from continuing an existing business relationship with the entity or association
13 based solely on its status as a firearm entity or firearm trade association; or

14 (iii) Terminate an existing business relationship with the entity or association based solely
15 on its status as a firearm entity or firearm trade association; and

16 (B) Does not include:

17 (i) The established policies of a merchant, retail seller or platform that restrict or prohibit the
18 listing or selling of ammunition, firearms, or firearm accessories; and

19 (ii) A company's refusal to engage in the trade of any commodities or services, decision to

20 refrain from continuing an existing business relationship, or decision to terminate an existing
21 business relationship to comply with federal, state, local law, policy, or regulations or a directive by
22 a regulatory agency or for any traditional business reason that is specific to the customer or
23 potential customer and not based solely on an entity's or association's status as a firearm entity or
24 firearm trade association.

25 (4) "Financial institution" means a financial institution as defined in 31 U.S.C. §5312.

26 (5) "Firearm" means a weapon that expels a projectile by the action of explosive or
27 expanding gases.

28 (6) "Firearm accessory" means a device specifically designed or adapted to enable an
29 individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and an
30 item used in conjunction with or mounted on a firearm that is not essential to the basic function of
31 the firearm. The term includes a detachable firearm magazine.

32 (7) "Firearm entity" means:

33 (A) A firearm, firearm accessory, or ammunition manufacturer, distributor, wholesaler,
34 supplier, or retailer; and

35 (B) A sport shooting range as defined by §61-6-23 of this code.

36 (8) "Firearm trade association" means any person, corporation, unincorporated
37 association, federation, business league, or business organization that:

38 (A) Is not organized or operated for profit and for which one of its net earnings inures to the
39 benefit of any private shareholder or individual;

40 (B) Has two or more firearm entities as members; and

41 (C) Is exempt from federal income taxation under Section 501(a). Internal Revenue Code
42 of 1986, as an organization described by Section 501(c) of that code.

43 (9) "Spending unit" has the meaning assigned by §5A-1-1 of this code.

§5A-13-2. Applicability; provision required in contract

44 (a) This section applies on to a contract that:

- 45 (1) Is between a spending unit and a company with at least 10 full-time employees; and
46 (2) Has a value of at least \$100,000 that is paid wholly or partly from public funds of the
47 spending unit.
- 48 (b) Except as provided by subsection (c) of this section, a spending unity may not enter a
49 contract with a company for the purchase of commodities or services unless the contract contains
50 a written verification from the company that it:
- 51 (1) Does not have practice, policy, guidance, or directive that discriminates against a
52 firearm entity or firearm trade association; and
- 53 (2) Will not discriminate during the term of the contract against a firearm entity or firearm
54 trade association.
- 55 (c) Subsection (b) does not apply to spending unit that:
- 56 (1) Contracts with a sole-course provider; or
57 (2) Does not receive any bids from a company that is able to provide the written verification
58 required by that subsection.

NOTE: The purpose of this bill is to establish the Firearms Industry Nondiscrimination Act.

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