

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

### **Introduced**

## **Senate Bill 565**

By Senators Hunt, Azinger, Barrett, Chapman,  
Clements, Deeds, Hamilton, Jeffries, Karnes,  
Maroney, Martin, Maynard, Oliverio, Phillips, Queen,  
Roberts, Rucker, Smith, Stover, Stuart, Taylor,  
Woodrum, Swope, Grady, and Plymale

[Introduced February 06, 2023; referred  
to the Committee on Banking and Insurance; and  
then to the Committee on the Judiciary]

1 A BILL to amend the code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §5-30-1, §5-30-2, §5-30-3, §5-30-4, and §5-30-5, all relating to discrimination  
 3 by financial institutions against people and businesses engaged in lawful firearms and  
 4 ammunition sales and manufacture; creating the Firearms Industry Nondiscrimination Act;  
 5 legislative findings; providing definitions; prohibiting certain acts of discrimination related to  
 6 firearm sales and manufacture; providing for civil causes of action; and giving enforcement  
 7 powers to the attorney general.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 30. THE FIREARMS INDUSTRY NONDISCRIMINATION ACT.**

**§5-30-1. Legislative findings.**

1 The Legislature finds that the State of West Virginia has a legitimate interest in protecting  
 2 West Virginia customers from being denied access to financial services and other areas of public  
 3 accommodations for exercising their constitutional second amendment right, or complying with  
 4 state law regarding the purchase, sale, or ownership of firearms or firearm-related products.

**§5-30-2. Definitions.**

1 As used in this article:

2 "Person" means one or more individuals, partnerships, associations, limited liability  
 3 companies, corporations, unincorporated organizations, mutual companies, joint stock  
 4 companies, trusts, agents, legal representatives, trustees, trustees in bankruptcy, receivers, labor  
 5 organizations, non-profit organizations, public bodies, public corporations, the state of West  
 6 Virginia, and all political subdivisions and agencies thereof.

7 "Trade association" means any corporation, unincorporated association, federation,  
 8 business league, professional, or business organization not organized or operated for profit and  
 9 no part of the net earnings of which inures to the benefit of any private shareholder or individual;  
 10 that is an organization described in 26 U.S.C. §501(c)(6) and exempt from tax under 26 U.S.C  
 11 §501(a); and two more members of which are manufacturers or sellers of a qualified product, as

12 defined by 15 U.S.C §7903(4).

13 "Interstate financial institution" means any commercial bank, trust company, investment  
14 bank, brokerage firm, investment dealer, insurance company, credit union, asset management  
15 fund, brokerage firm, investment dealer, insurance company, credit union, asset management  
16 fund, mortgage broker, payment aggregator, payment processor, payment gateway, or other  
17 financial service provider located in any state or commonwealth of the United States and providing  
18 its services to customers in West Virginia.

**§5-30-3. Prohibition of discriminatory practices.**

1 (a) It shall be an unlawful discriminatory practice for any interstate financial institution to  
2 refuse to provide any goods or services of any kind, or to refrain from continuing an existing  
3 business relationship, or to terminate an existing business relationship with, or otherwise  
4 discriminate against a person or trade association, solely because a person or trade association  
5 exercises its right pursuant to the Second Amendment of the United States Constitution; or is  
6 licensed pursuant to 18 U.S.C. § 44; or is engaged in the lawful commerce of a firearm,  
7 ammunition, magazines, or firearm-related products.

8 (b) It shall be an unlawful discriminatory practice for any interstate financial institution to  
9 refuse to provide any goods or services of any kind, or to refrain from continuing an existing  
10 business relationship, or to terminate an existing business relationship with, or otherwise  
11 discriminate against a person or trade association solely because a person or trade association  
12 exercises its right pursuant to the Second Amendment of the United States Constitution; or is  
13 licensed pursuant to 18 U.S.C. § 44; or is engaged in the lawful commerce of a firearm,  
14 ammunition product, magazine, or firearm-related product; or uses its services for the processing  
15 of payments for firearms, weaponry, ammunition, or magazines.

16 (c) Any such interstate financial institution shall have civil immunity for any such case  
17 involving negligence, wrongdoing, or other civil or criminal offense committed by a person or trade  
18 association using its financial services if in good faith were believed to be in compliance with state

19 law.

**§5-30-4. Civil remedies.**

1 (a) A victim of unlawful discriminatory practices described §5-30-3 of this code, and  
2 amendments thereto, may bring a civil cause of action for unlawful discriminatory practices  
3 against any person who committed the offense for actual and compensatory damages, punitive  
4 damages, injunctive relief, and any appropriate civil relief;

5 (b) A plaintiff who successfully prevails in a civil action filed pursuant to this section and  
6 amendments thereto, shall be entitled to recover reasonable attorney fees and court costs;

7 (c) A civil cause of action filed pursuant to this section and amendments thereto shall be  
8 filed no later than three years after the date when the aggrieved person becomes aware of the  
9 unlawful discriminatory practice described in §5-30-3 of this code and amendment thereto.

**§5-30-5. Oversight by the Attorney General**

1 In addition to any other remedies provided in §5-30-4 of this code and amendments  
2 thereto, whenever the attorney general has reason to believe that any person is engaging, has  
3 engaged or is about to engage in any act or practice declared unlawful under §5-30-3 of this code  
4 and amendments thereto, whenever the attorney general has reason to believe that any person is  
5 engaging, has engaged, or is about to engage in any act or practice declared unlawful under §5-  
6 30-3 of this code and amendments thereto, the attorney general may bring an action against such  
7 person:

8 (1) To obtain a declaratory judgment that such act or practice violates the provisions of §5-  
9 30-3 of this code and amendments thereto;

10 (2) To enjoin such act or practice by issuance of a temporary injunctive order or preliminary  
11 or permanent injunction, without bond, upon the giving of appropriate notice; and

12 (3) To recover civil penalties in an amount not to exceed \$10,000 per violation of §5-30-3 of  
13 this code and amendments thereto, or any injunction, judgment, or consent order issued or  
14 entered into under the provisions of this article and amendments thereto, and reasonable

15 expenses, investigative costs, and attorney fees.

NOTE: The purpose of this bill is to prevent financial institutions from discriminating against people or business that trade in firearms and ammunition manufacture and sales.

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