

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5010

By Delegates Householder, Horst, Phillips, Chiarelli,
Dittman, Hardy, Mallow, Kelly, Smith, McGeehan, and
Espinosa

[Introduced January 23, 2024; Referred 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 §15-16-1, §15-16-2, §15-16-3, §15-16-4, and §15-16-5, all relating to the
 3 Firearms Industry Nondiscrimination Act; establishing short title; defining terms;
 4 establishing application of act to certain government contracts; providing exceptions; and
 5 providing the Attorney General the authority to review contracts for compliance with the
 6 Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. FIREARMS INDUSTRY NONDISCRIMINATION ACT.

§15-16-1. Short Title.

1 This Act shall be known and may be cited as the Firearm Industry Nondiscrimination Act.

§15-16-2. Definitions.

1 For purposes of the Firearm Industry Nondiscrimination Act:

2 (1) "Ammunition" means a loaded cartridge or shot shell, case, primer, projectile, wadding,
 3 or propellant powder.

4 (2)(A) "Company" means a for-profit organization, association, corporation, partnership,
 5 joint venture, limited partnership, limited liability partnership, or limited liability company, including
 6 a wholly owned subsidiary, a majority-owned subsidiary, a parent company, or an affiliate of such
 7 an entity that exists to make a profit;

8 (B) The term does not include a sole proprietorship.

9 (3)(A) "Contract" means a promise or set of promises constituting an agreement between
 10 the parties that gives each a legal duty to the other and the right to seek a remedy for the breach of
 11 those duties;

12 (B) The term does not include an agreement related to investment services.

13 (4)(A) "Discriminate against a firearm entity or firearm trade association" means, with
 14 respect to the entity or association, to:

15 (i) Refuse to engage in the trade of any goods or services with the entity or association

16 based solely on its status as a firearm entity or firearm trade association, which includes the lawful
17 products and services provided by, and the lawful practices of, firearm entities and firearm trade
18 associations;

19 (ii) Refrain from continuing an existing business relationship with the entity or association
20 based solely on its status as a firearm entity or firearm trade association, which includes the lawful
21 products and services provided by, and the lawful practices of, firearm entities and firearm trade
22 associations; or

23 (iii) Terminate an existing business relationship with the entity or association based solely
24 on its status as a firearm entity or firearm trade association, which includes the lawful products and
25 services provided by, and the lawful practices of, firearm entities and firearm trade associations;

26 (B) The term does not include the policies of a vendor, merchant, retail seller, or platform
27 that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories;

28 (C) The term also does not include a company's refusal to engage in the trade of any goods
29 or services, decision to refrain from continuing an existing business relationship, or decision to
30 terminate an existing business relationship to comply with federal, state, or local laws, policies, or
31 regulations or a directive by a regulatory agency, or for any traditional business reason that is
32 specific to the customer or potential customer and not based solely on the status of an entity or
33 association as a firearm entity or firearm trade association, which includes the lawful products and
34 services provided by, and the lawful practices of, firearm entities and firearm trade associations.

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

37 (6)(A) "Firearm accessory" means a device specifically designed or adapted to enable an
38 individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and an
39 item used in conjunction with or mounted on a firearm that is not essential to the basic function of
40 the firearm;

41 (B) The term includes a detachable firearm magazine.

42 (7) "Firearm entity" means:

43 (A) A firearm, firearm accessory, or ammunition manufacturer, distributor, wholesaler,
44 supplier, or retailer; or

45 (B) A gun range.

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

48 (A) Is not organized or operated for profit and for which none of its net earnings inures to
49 the benefit of any private shareholder or individual;

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

51 (C) Is exempt from federal income taxation under section 501(a) of the Internal Revenue
52 Code of 1986, as an organization described by section 501(c) of such code.

53 (9) "Governmental entity" means:

54 (A) Any state agency; or

55 (B) Any political subdivision of this state.

56 (10) "Sole-source provider" means a supplier who provides goods or services of a unique
57 nature or goods or services that are solely available through the supplier and the supplier is the
58 only practicable source to provide the goods or services.

59 (11) "State agency" means any agency, board, or commission of this state other than the
60 courts, the Legislature, or any officer or state agency established by the Constitution of West
61 Virginia.

§15-16-3. Application of act to certain contracts.

1 (a) The Firearm Industry Nondiscrimination Act shall apply to a contract that:

2 (1) Is between a governmental entity and a company with at least ten full-time employees;

3 (2) Has a value of at least \$100,000 that is paid wholly or partly from public funds of the
4 governmental entity; and

5 (3) Is entered into on or after the effective date of this act.

6 (b) Except as provided in §15-16-4 of this code, a governmental entity shall not enter into a
 7 contract with a company for the purchase of goods or services unless the contract contains a
 8 written verification from the company that it:

9 (1) Does not have a practice, policy, guidance document, or directive that discriminates
 10 against a firearm entity or firearm trade association; and

11 (2) Will not discriminate against a firearm entity or firearm trade association during the term
 12 of the contract.

§15-16-4. Exceptions.

1 The requirements of §15-16-3 of this code do not apply if a governmental entity:

2 (1) Contracts with a sole-source provider; or

3 (2) Does not receive a bid from a company that is able to provide the written verification
 4 required by §15-16-3 of this code.

§15-16-5. Review authority.

1 The Attorney General has the authority and responsibility of reviewing state agency
 2 contracts to confirm that the requirements of the Firearm Industry Nondiscrimination Act have
 3 been satisfied.

NOTE: The purpose of this bill relates to the Firearms Industry Nondiscrimination Act; to establish a short title; define terms; establish application of act to certain government contracts; provide exceptions; and provide the Attorney General the authority to review contracts for compliance with the 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.