

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **Senate Bill 466**

By Senators Phillips, Smith, Barrett, and Maynard

[Introduced January 25, 2023; 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 §31A-8H-1, §31A-8H-2, §31A-8H-3, and §31A-8H-4, all relating generally to  
 3 prohibiting financial institutions from discriminating against firearms businesses;  
 4 specifying civil remedies; providing for attorneys fees and costs for a successful action;  
 5 providing a statute of limitations on civil actions; providing for potential loss of state  
 6 business to a financial institution found to have violated this article; and providing for an  
 7 effective date.

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

**ARTICLE 8H. PROHIBITING FINANCIAL INSTITUTIONS FROM DISCRIMINATING**  
**AGAINST FIREARMS BUSINESSES.**

**§31A-8H-1. Definitions.**

1 (a) As used in this article:

2 (1) "Ammunition" means one or more loaded cartridges consisting of a primed case,  
3 propellant and with or without one or more projectiles;

4 (2) "Discriminate" means to:

5 (A) Refuse to engage in the trade of any goods or services;

6 (B) Refrain from continuing an existing business relationship;

7 (C) Terminate an existing business relationship;

8 (D) Otherwise unlawfully discriminate against a person.

9 (3) "Financial institution" means a payment processor, a financial institution as defined in  
10 this chapter or a national banking association as defined in 12 U.S.C. § 221;

11 (4) "Firearm" means a weapon that expels a projectile by the action of an explosive;

12 (5) "Firearm accessory" means both:

13 (A) A device that is specifically designed or adapted to enable a person to wear or carry a  
14 firearm on the person or to store or mount a firearm in or on a conveyance;

15 (B) An attachment or device that is specifically designed or adapted to be inserted into or  
16 affixed onto a firearm to enable, alter or improve the functioning or capabilities of the firearm.

17 (6) "Firearm entity" means all of the following:

18 (A) A firearm, firearm accessory or ammunition manufacturer, retailer and distributor;

19 (B) A shooting range; or

20 (C) A trade association.

21 (7) "Trade association" means any person, corporation, unincorporated association,  
22 federation, business league or professional or business organization that:

23 (A) Is not organized or operated for profit and for which no part of its net earning inures to  
24 the benefit of any private shareholder or individual;

25 (B) Is an organization described in section 501(c)(6) of the Internal Revenue Code and is  
26 exempt from tax pursuant to section 501(a) of the Internal Revenue Code;

27 (C) Has two (2) or more members who are firearm, firearm accessory or ammunition  
28 manufacturers or sellers.

29 (b) All other definitions are prescribed the meanings as otherwise set forth in this chapter.

**§31A-8H-2. Unlawful discrimination against a firearm entity; exception.**

1 (a) A financial institution shall not discriminate against a firearm entity because the firearm  
2 entity supports or is engaged in the lawful commerce of firearms, firearm accessories or  
3 ammunition products.

4 (b) This section shall not apply to a financial institution that chooses not to provide services  
5 to a firearm entity for a business or financial reason or due to a directive by the state banking  
6 commissioner or a bank supervisory agency as defined by this chapter. This section shall also not  
7 apply to a financial institution that has a written policy prohibiting the institution from discriminating  
8 against firearm entities as defined in this chapter. For the purposes of this subsection, "business or  
9 financial reason" does not include a policy of refusing to provide financial services or otherwise  
10 discriminating when providing financial services to a firearm entity.

**§31A-8H-3. Remedies; attorney general notice; statute of limitation.**

1           (a) A person who is injured by a violation of this article may bring a civil action against the  
2 financial institution. A court of competent jurisdiction shall award the successful party reasonable  
3 attorney fees and costs. The court may award the successful party any of the following:

4           (1) Actual and compensatory damages;

5           (2) Treble damages;

6           (3) Punitive or exemplary damages;

7           (4) Injunctive relief; or

8           (5) Any other appropriate civil relief.

9           (b) The attorney general may file a civil action for a violation of this article. The attorney  
10 general may request the court to do any of the following:

11           (1) Issue a declaratory judgment for an act or practice that violates this article;

12           (2) Enjoin any act or practice that violates this article by issuing a temporary restraining  
13 order or preliminary or permanent injunction, without a bond, after providing appropriate notice;

14           (3) In the event of repeated discrimination or failure to adhere to the financial institution's  
15 own antidiscrimination policy, impose a civil penalty that does not exceed \$20,000.00 per violation  
16 of this article.

17           (c) If the attorney general prevails on an action filed pursuant to subsection (b) of this  
18 section, a court's order for relief, in addition to any other remedies, may include any relief sought  
19 under subsection (b) of this section and shall include an award to the attorney general for  
20 reasonable attorney fees and investigative and litigation costs.

21           (d) The attorney general shall submit the name of any financial institution that has violated  
22 this article to the governor and request that the state terminate any business relationship with the  
23 financial institution.

24           (e) Any civil action shall be commenced within not more than two years after the date that  
25 the violation is discovered or should reasonably have been discovered.

