

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

### **ENGROSSED**

## **House Bill 5694**

By Delegates Householder, Phillips, Burkhammer,  
Mallow, Chiarelli, Horst, Smith, Crouse, Butler, C.  
Pritt, and Longanacre

[Originating in the Committee on Government  
Organization; Reported on February 19, 2024]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §5A-13-1, §5A-13-2, §5A-13-3, §5A-13-4, §5A-13-5, and §5A-13-6, all relating  
3 to the Firearms Industry Nondiscrimination Act; establishing the short title; defining terms;  
4 establishing application of act to certain government contracts; providing an exception;  
5 setting forth when certain contracts are void; prohibiting financial institutions from  
6 discriminating against a firearm entity or firearm trade association; specifying the  
7 applicability of the prohibition; providing civil remedies for a violation by an individual;  
8 providing for enforcement by the Attorney General; providing that an enforcement action  
9 by the Attorney General does not prohibit a civil action by an individual; providing remedies  
10 in an action by the Attorney General; requiring the Attorney General to submit names of  
11 financial institutions in violation to the Governor and to request that the state terminate any  
12 business relationship with the financial institution; providing a statute of limitations for  
13 actions; and providing exceptions to the prohibition .

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

**ARTICLE 13. FIREARMS INDUSTRY NONDISCRIMINATION ACT.**

**§5A-13-1. Short Title.**

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

**§5A-13-2. 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) "Contract" means a promise or set of promises constituting an agreement between the  
5 parties that gives each a legal duty to the other and the right to seek a remedy for the breach of  
6 those duties: *Provided*, That the term does not include an agreement related to investment  
7 services.

8           (3) "Discriminate against a firearm entity or firearm trade association" means, with respect  
9 to the entity or association, to:

10           (A) Refuse to provide or engage in services with the entity or association based on its  
11 status as a firearm entity or firearm trade association, which includes the lawful products and  
12 services provided by, and the lawful practices of, firearm entities and firearm trade associations;

13           (B) Refrain from continuing an existing business relationship with the entity or association  
14 based on its status as a firearm entity or firearm trade association, which includes the lawful  
15 products and services provided by, and the lawful practices of, firearm entities and firearm trade  
16 associations; or

17           (C) Terminate an existing business relationship with the entity or association based on its  
18 status as a firearm entity or firearm trade association, which includes the lawful products and  
19 services provided by, and the lawful practices of, firearm entities and firearm trade associations;

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

22           (E) The term also does not include a decision to refrain from continuing an existing  
23 business relationship, or decision to terminate an existing business relationship to comply with  
24 federal, state, or local laws, policies, or regulations or a directive by a regulatory agency, or for any  
25 traditional business reason that is specific to the customer or potential customer and not based on  
26 the status of an entity or association as a firearm entity or firearm trade association, which includes  
27 the lawful products and services provided by, and the lawful practices of, firearm entities and  
28 firearm trade associations.

29           (4) "Financial institution" means a financial institution as defined in 31 U.S.C. § 5312:  
30 Provided, That for the purposes of this article, the term refers only to financial institutions that do  
31 business or have a contract with this state.

32 (5) "Firearm" means any weapon which will expel a projectile by action of an explosion. For  
33 purposes of this article, the term "firearm" includes antique firearms, as defined in §61-7-2 of this  
34 code.

35 (6) "Firearm accessories or components" means:

36 (A) Any device specifically adapted to enable the wearing or carrying about one's person or  
37 the storage or mounting in or on any conveyance of a firearm and any attachment or device  
38 specifically adapted to be inserted into or affixed onto any firearm to enable, alter, or improve the  
39 functioning or capabilities of the firearm;

40 (B) Any item that is used in conjunction with or mounted upon a firearm, including but not  
41 limited to telescopic or laser sights, magazines, flash or sound suppressors, folding or aftermarket  
42 stocks and grips, speedloaders, braces, ammunition carriers, and lights for target illumination;

43 (C) Any component for making ammunition, reloading materials and equipment,  
44 machinery, and tools for manufacturing ammunition; and

45 (D) Detachable firearm magazines.

46 (7) "Firearm entity" means:

47 (A) A firearm, firearm accessory, or ammunition manufacturer, distributor, wholesaler,  
48 supplier, or retailer; or

49 (B) A shooting range as defined in §61-6-23 of this code.

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

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

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

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

57 (9) "Governmental entity" means:

58 (A) Any state agency; or

59 (B) Any political subdivision of this state.

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

63 (11) "State agency" means any agency, board, or commission of this state other than the  
64 courts and the Legislature.

**§5A-13-3. 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 financial institution; and

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

4 (b) Except as provided in §5A-13-4 of this code, a governmental entity may not enter into a  
5 contract with any financial institution that discriminates against any firearm entity or firearm trade  
6 association.

7 (c) Any contract to which §5A-13-3(a) of this code applies that violates the requirements of  
8 this article shall be void as against public policy.

**§5A-13-4. Exceptions.**

1 The requirements of §5A-13-3 of this code do not apply if a governmental entity contracts  
2 with a sole-source provider.

**§5A-13-5. Unlawful discrimination against a firearm entity or firearm trade association; exception.**

1 (a) A financial institution that does business or has a contract with this state may not  
2 discriminate against a firearm entity or firearm trade association because the firearm entity or  
3 firearm trade association supports or is engaged in the lawful commerce of firearms, firearm  
4 accessories, or ammunition products.

5           (b) This section shall not apply to a financial institution that chooses not to provide services  
6 to a firearm entity or firearm trade association for a business or financial reason or due to a  
7 directive by the state banking commissioner or a bank supervisory agency as defined by §31A-8D-  
8 2(c) of this code. This section shall also not apply to a financial institution that has a written policy  
9 prohibiting the institution from discriminating against firearm entities or firearm trade associations  
10 as those terms are defined in §5A-13-2 of this code. For the purposes of this subsection, “business  
11 or financial reason” does not include a policy of refusing to provide financial services or otherwise  
12 discriminating when providing financial services to a firearm entity.

**§5A-13-6. Remedies; attorney general notice; statute of limitations.**

1           (a) A person who is injured by a violation of §5A-13-5 of this code may bring a civil action  
2 against the financial institution in his or her own name in the circuit court for the county where the  
3 alleged violation occurred. If the injured person prevails on his or her claim, then the court shall  
4 award the injured person reasonable attorney fees and costs. The court may further award the  
5 prevailing injured person any of the following:

6           (1) Actual and compensatory damages;

7           (2) Punitive or exemplary damages;

8           (3) Injunctive relief; and

9           (4) Any other appropriate civil relief.

10          (b) The Attorney General may file a civil action for a violation of §5A-3-5 of this code:  
11 Provided, That the authority granted to the Attorney General does not affect the right of a person  
12 who is injured by a violation of §5A-3-5 of this code to bring an action for a violation of the rights  
13 protected under this article. The Attorney General may request the court to do any of the following:

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

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

18           (c) The Attorney General shall submit the name of any financial institution that has violated  
19 this article to the Governor and request that the state terminate any business relationship with the  
20 financial institution.

21           (d) Any civil action brought pursuant to this section shall be commenced within not more  
22 than two years after the date that the violation is discovered or should reasonably have been  
23 discovered.

24           (e) The remedies and actions available or required under this section shall not be  
25 applicable if a financial institution has a written policy prohibiting the institution from discriminating  
26 against firearm entities as those terms are defined in §5A-13-2 of this code.