

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 5502**

By Delegates Hamilton, Lewis, Garcia, Hansen,  
Pushkin, and Hornbuckle

[Introduced February 13, 2026; referred to the  
Committee on Government Organization then the  
Judiciary]

1 A BILL to amend and reenact §16B-17-3 of the Code of West Virginia, 1933, as amended, relating  
 2 to providing a definition of "race" under the Human Rights Act to allow for regulation of  
 3 traits historically associated with the individual's race as long as done to preserve work  
 4 place health and safety.

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

**ARTICLE 17. HUMAN RIGHTS COMMISSION.**

**§16B-17-3. Definitions.**

1 When used in this article:

2 (a) The term "person" means one or more individuals, partnerships, associations,  
 3 organizations, corporations, labor organizations, cooperatives, legal representatives, trustees,  
 4 trustees in bankruptcy, receivers, and other organized groups of persons;

5 (b) The term "commission" means the West Virginia Human Rights Commission;

6 (c) The term "director" means the executive director of the commission who reports to the  
 7 Inspector General;

8 (d) The term "employer" means the state, or any political subdivision thereof, and any  
 9 person employing 12 or more persons within the state for 20 or more calendar weeks in the  
 10 calendar year in which the act of discrimination allegedly took place or the preceding calendar  
 11 year: Provided, That such terms shall not be taken, understood or construed to include a private  
 12 club;

13 (e) The term "employee" shall not include any individual employed by his or her parents,  
 14 spouse or child;

15 (f) The term "labor organization" includes any organization which exists for the purpose, in  
 16 whole or in part, of collective bargaining or of dealing with employers concerning grievances,  
 17 terms or conditions of employment or for other mutual aid or protection in relation to employment;

18 (g) The term "employment agency" includes any person undertaking, with or without  
 19 compensation, to procure, recruit, refer or place employees. A newspaper engaged in the activity

20 of advertising in the normal course of its business shall not be deemed to be an employment  
21 agency;

22 (h) The term "discriminate" or "discrimination" means to exclude from, or fail or refuse to  
23 extend to, a person equal opportunities because of race, religion, color, national origin, ancestry,  
24 sex, age, blindness, disability or familial status and includes to separate or segregate;

25 (i) The term "unlawful discriminatory practices" includes only those practices specified in  
26 §16B-17-9 of this code;

27 (j) The term "place of public accommodations" means any establishment or person, as  
28 defined herein, including the state, or any political or civil subdivision thereof, which offers its  
29 services, goods, facilities, or accommodations to the general public, but shall not include any  
30 accommodations which are in their nature private. To the extent that any penitentiary, correctional  
31 facility, detention center, regional jail or county jail is a place of public accommodation, the rights,  
32 remedies and requirements provided by this article for any violation of subdivision (6), §16B-17-9  
33 of this code shall not apply to any person other than: (1) Any person employed at a penitentiary,  
34 correctional facility, detention center, regional jail or county jail; (2) any person employed by a law-  
35 enforcement agency; or (3) any person visiting any such employee or visiting any person detained  
36 in custody at such facility;

37 (k) The term "age" means the age of 40 or above;

38 (l) For the purpose of this article, a person shall be considered to be blind only if his central  
39 visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity  
40 is greater than 20/200 but is occasioned by a limitation in the fields of vision such that the widest  
41 diameter of the visual field subtends an angle no greater than twenty degrees; and

42 (m) The term "disability" means:

43 (1) A mental or physical impairment which substantially limits one or more of such person's  
44 major life activities. The term "major life activities" includes functions such as caring for one's self,  
45 performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working;

- 46 (2) A record of such impairment; or
- 47 (3) Being regarded as having such an impairment.

48 For the purposes of this article, this term does not include persons whose current use of or  
49 addiction to alcohol or drugs prevents such persons from performing the duties of the job in  
50 question or whose employment, by reason of such current alcohol or drug abuse, would constitute  
51 a direct threat to property or the safety of others.

52 (n) The term "race" means traits historically associated with the individual's race, including  
53 hair texture and protective hairstyles: *Provided*, That nothing in this clause shall be construed to  
54 prohibit an employer from adopting and enforcing an otherwise valid workplace health and safety  
55 rule or policy or other rule or policy justified as a bona fide occupational qualification, if the  
56 employer demonstrates that the rule or policy impacts traits historically associated with the  
57 individual's race, and all of the following:

58 (1) Without the adoption of the rule or policy the health or safety of the employee or other  
59 materially connected persons would be impaired;

60 (2) The rule or policy is adopted for nondiscriminatory reasons;

61 (3) The rule or policy is specifically tailored to the applicable position and activity; and

62 (4) The rule or policy is applied equally to all individuals whose positions fall under the  
63 applicable position and activity."

NOTE: The purpose of this bill is to provide a definition of "race" under the Human Rights Act to allow regulation of hairstyles or other traits historically associated with a persons race if done for a nondiscriminatory basis and to assure workplace safety.

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