

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1214

Short Title: No Discrimination in Commercial Contracts. (Public)

Sponsors: Representatives Cunningham; Alexander, G. Allen, Bell, Earle, Farmer-Butterfield, Hall, Hunter, Jones, Luebke, McAllister, Miller, Parmon, Wainwright, Womble, and Wright.

Referred to: State Government.

April 10, 2003

A BILL TO BE ENTITLED

1
2 AN ACT TO MAKE IT UNLAWFUL TO DISCRIMINATE IN COMMERCIAL
3 CONTRACTS AND TO CLARIFY THE POLICY OF THE STATE ON DOING
4 BUSINESS WITH PERSONS FOUND TO DISCRIMINATE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 75B-1 reads as rewritten:

7 **"§ 75B-1. Definitions.**

8 The following words and phrases as used in this Chapter shall have the following
9 meaning unless the context clearly requires otherwise:

10 (1) "Business," the manufacture, processing, sale, purchase, licensing,
11 distribution, provision, or advertising of goods or services, or
12 extension of credit, or issuance of letters of credit, or any other aspect
13 of business;

14 (1a) "Commercial customer," a business entity that procures or attempts to
15 procure goods or services, including construction, real estate
16 development, financial, insurance, professional and other services,
17 from persons for business as opposed to personal use;

18 (2) "Foreign government," all governments and political subdivisions and
19 the instrumentalities thereof, excepting the government, political
20 subdivisions, and instrumentalities of the United States and the states,
21 commonwealths, territories and possessions of the United States, and
22 the District of Columbia;

23 (3) "Foreign person," any person whose principal place of residence,
24 business or domicile is outside the United States, or any person
25 controlled directly or indirectly by such person or persons; provided,
26 however, that no person shall be deemed a foreign person if after
27 reasonable inquiry and due diligence it cannot be determined that any

- 1 such person has a principal place of residence, business, or domicile
2 outside the United States or is controlled by such person;
- 3 (4) "Foreign trade relationships," the dealing with or in any foreign
4 country of any person, or being listed on a boycott list or compilation
5 of unacceptable persons maintained by a foreign government, foreign
6 person, or international organization;
- 7 (5) "International organization," any association or organization, with the
8 exception of labor associations, or organizations of which more than a
9 majority of the membership consists of foreign persons or foreign
10 governments; and
- 11 (6) "Persons," one or more of the following or their agents, employees,
12 servants, representatives, directors, officers, partners, members,
13 managers, superintendents, and legal representatives: individuals,
14 corporations, partnerships, joint ventures, associations, labor
15 organizations, educational institutions, mutual companies, joint-stock
16 companies, trusts, unincorporated organizations, trustees, trustees in
17 bankruptcy, receivers, fiduciaries, and all other entities recognized at
18 law by this State."

19 **SECTION 2.** G.S. 75B-2 reads as rewritten:

20 **"§ 75B-2. Discrimination in business prohibited.**

21 (a) It shall be unlawful for any person doing business in the State or for any
22 agency, institution or political subdivision of the State of North Carolina:

- 23 (1) To enter into any agreement, contract, arrangement, combination, or
24 understanding with any foreign government, foreign person, or
25 international organization, which requires such person or the State to
26 refuse, fail, or cease to do business in the State with any other person
27 who is domiciled or has a usual place of business in the State, based
28 upon such other person's race, ~~color, creed,~~gender, religion, ~~sex,~~
29 ~~national origin—origin, age, physical disability~~ or foreign trade
30 relationships;
- 31 (2) To execute in the State any contract with any foreign government,
32 foreign person, or international organization which requires such
33 person or the State to refuse, fail or cease to do business with another
34 person who is domiciled or has a usual place of business in the State,
35 based upon such other person's race, ~~color, creed,~~gender, religion, ~~sex,~~
36 ~~national origin, age, physical disability~~ or foreign trade relationships;
- 37 (3) To refuse, fail or cease to do business in the State with any other
38 person who is domiciled or has a usual place of business in the State or
39 with the State when such refusal, failure, or cessation results directly
40 or indirectly from an agreement, contract, arrangement, combination,
41 or understanding between the person who refuses, fails or ceases to do
42 business and any foreign government, foreign person, or international
43 organization, and is based upon such other person's race, ~~color,~~

1 ~~ereed, gender, religion, sex, national origin~~ origin, age, physical
2 disability or foreign trade relationships;

3 (4) To discharge or to fail, refuse or cease to hire, promote or appoint in
4 the State any other person who is domiciled in the State to any position
5 of employment or employment responsibility when such refusal,
6 failure or cessation results from an agreement, contract, arrangement,
7 combination, or understanding with any foreign government, foreign
8 person, or international organization and is based upon such other
9 person's race, ~~color, creed, gender, religion, sex, national origin, age,~~
10 physical disability or foreign trade relationships;

11 (5) To willfully and knowingly aid or abet any other person to engage in
12 conduct which is prohibited by this Chapter.

13 (b) It shall be unlawful for any person doing business in the State to discriminate
14 on the basis of race, gender, religion, national origin, age or physical disability, or on
15 the basis of any otherwise unlawful use of characteristics against a vendor, supplier,
16 subcontractor, or commercial customer by any disadvantage, difference, distinction, or
17 preference in the solicitation, selection, hiring or treatment of the person. Nothing in this
18 subsection shall prohibit or limit otherwise lawful efforts to remedy the effects or
19 discrimination that has occurred or is occurring in the marketplace."

20 **SECTION 3.** G.S. 143-135.5(b) reads as rewritten:

21 "(b) It is the policy of this State for its agencies, institutions, and political
22 subdivisions not to accept bids or proposals from, nor to engage in business with, any
23 business that, within the last two years, has been finally found by a court or an
24 administrative agency of competent jurisdiction to have unlawfully discriminated on the
25 basis of race, gender, religion, national origin, age, physical disability, or any other
26 unlawful basis in its solicitation, selection, hiring, or treatment of another business."

27 **SECTION 4.** This act is effective when it becomes law.