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SENATE BILL NO. 637

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Labor and Commerce
on March 3, 2026)

(Patrons Prior to Substitute—Senators Ebbin and Boysko)

A *BILL to amend and reenact §§ 2.2-3904, 2.2-3905, and 2.2-3907 of the Code of Virginia, relating to Virginia Human Rights Act; nondiscrimination; procedures for a charge of unlawful discrimination.*

Be it enacted by the General Assembly of Virginia:**1. That §§ 2.2-3904, 2.2-3905, and 2.2-3907 of the Code of Virginia are amended and reenacted as follows:****§ 2.2-3904. Nondiscrimination in places of public accommodation; definitions.**

A. As used in this section:

"Age" means being an individual who is at least 18 years of age.

"Place of public accommodation" means all places or businesses offering or holding out to the general public goods, services, privileges, facilities, advantages, or accommodations, *including educational institutions.*

B. It is an unlawful discriminatory practice for any person, including the owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, to refuse, withhold from, or deny any individual, or to attempt to refuse, withhold from, or deny any individual, directly or indirectly, any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation, or to segregate or discriminate against any such person in the use thereof, or to publish, circulate, issue, display, post, or mail, either directly or indirectly, any communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, privileges, or services of any such place shall be refused, withheld from, or denied to any individual on the basis of race, color, religion, ethnic or national origin, sex, pregnancy, childbirth or related medical conditions, age, sexual orientation, gender identity, marital status, disability, or military status.

C. The provisions of this section shall not apply to a private club, a place of accommodation owned by or operated on behalf of a religious corporation, association, or society that is not in fact open to the public, or any other establishment that is not in fact open to the public.

D. The provisions of this section shall not prohibit (i) discrimination against individuals who are ~~less than~~ *younger than* 18 years of age *solely on the basis of such individual's age* or (ii) the provision of special benefits, incentives, discounts, or promotions by public or private programs to assist persons who are 50 years of age or older.

E. The provisions of this section shall not supersede or interfere with any state law or local ordinance that prohibits a person under the age of 21 from entering a place of public accommodation.

§ 2.2-3905. Nondiscrimination in employment; definitions; exceptions.

A. As used in this section:

"Age" means being an individual who is at least 40 years of age.

"Domestic worker" means an individual who is compensated directly or indirectly for the performance of services of a household nature performed in or about a private home, including services performed by individuals such as companions, babysitters, cooks, waiters, butlers, valets, maids, housekeepers, nannies, nurses, janitors, laundresses, caretakers, handymen, gardeners, home health aides, personal care aides, and chauffeurs of automobiles for family use. "Domestic worker" does not include (i) a family member, friend, or neighbor of a child, or a parent of a child, who provides child care in the child's home; (ii) any child day program as defined in § 22.1-289.02 or an individual who is an employee of a child day program; or (iii) any employee employed on a casual basis in domestic service employment to provide companionship services for individuals who, because of age or infirmity, are unable to care for themselves.

"Employee" means an individual employed by an employer.

"Employer" means a person employing (i) ~~15~~ *five* or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person, or (ii) one or more domestic workers. ~~However, (a) for purposes of unlawful discharge under subdivision B 1 on the basis of race, color, religion, ethnic or national origin, military status, sex, sexual orientation, gender identity, marital status, disability, pregnancy, or childbirth or related medical conditions including lactation, "employer" means any person employing more than five persons or one or more domestic workers and (b) for purposes of unlawful discharge under subdivision B 1 on the basis of age, "employer" means any employer employing more than five but fewer than 20 persons.~~

"Employment agency" means any person, or an agent of such person, regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer.

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60 "Joint apprenticeship committee" means the same as that term is defined in § 2.2-2043.

61 "Labor organization" means an organization engaged in an industry, or an agent of such organization, that
62 exists for the purpose, in whole or in part, of dealing with employers on behalf of employees concerning
63 grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment. "Labor
64 organization" includes employee representation committees, groups, or associations in which employees
65 participate.

66 "Lactation" means a condition that may result in the feeding of a child directly from the breast or the
67 expressing of milk from the breast.

68 B. It is an unlawful discriminatory practice for:

69 1. An employer to:

70 a. Fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to such
71 individual's compensation, terms, conditions, or privileges of employment because of such individual's race,
72 color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related
73 medical conditions including lactation, age, military status, disability, or ethnic or national origin; or

74 b. Limit, segregate, or classify employees or applicants for employment in any way that would deprive or
75 tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's
76 status as an employee; because of such individual's race, color, religion, sex, sexual orientation, gender
77 identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, military
78 status, disability, or ethnic or national origin.

79 2. An employment agency to:

80 a. Fail or refuse to refer for employment, or otherwise discriminate against, any individual because of
81 such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy,
82 childbirth or related medical conditions, age, military status, disability, or ethnic or national origin; or

83 b. Classify or refer for employment any individual on the basis of such individual's race, color, religion,
84 sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions,
85 age, military status, disability, or ethnic or national origin.

86 3. A labor organization to:

87 a. Exclude or expel from its membership, or otherwise discriminate against, any individual because of
88 such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy,
89 childbirth or related medical conditions, age, military status, disability, or ethnic or national origin;

90 b. Limit, segregate, or classify its membership or applicants for membership, or classify or fail to or refuse
91 to refer for employment any individual, in any way that would deprive or tend to deprive such individual of
92 employment opportunities, or would limit such employment opportunities or otherwise adversely affect an
93 individual's status as an employee or as an applicant for employment, because of such individual's race, color,
94 religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical
95 conditions, age, military status, disability, or ethnic or national origin; or

96 c. Cause or attempt to cause an employer to discriminate against an individual in violation of ~~subdivisions~~
97 *subdivision a or b*.

98 4. An employer, labor organization, or joint apprenticeship committee to discriminate against any
99 individual in any program to provide apprenticeship or other training program on the basis of such
100 individual's race, color, religion, sex, sexual orientation, gender identity, pregnancy, childbirth or related
101 medical conditions, age, military status, disability, or ethnic or national origin.

102 5. An employer, in connection with the selection or referral of applicants or candidates for employment or
103 promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of
104 employment-related tests on the basis of race, color, religion, sex, sexual orientation, gender identity, marital
105 status, pregnancy, childbirth or related medical conditions, age, military status, disability, or ethnic or
106 national origin.

107 6. Except as otherwise provided in this chapter, an employer to use race, color, religion, sex, sexual
108 orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military
109 status, disability, or ethnic or national origin as a motivating factor for any employment practice, even though
110 other factors also motivate the practice.

111 7. (i) An employer to discriminate against any employees or applicants for employment, (ii) an
112 employment agency or a joint apprenticeship committee controlling an apprenticeship or other training
113 program to discriminate against any individual, or (iii) a labor organization to discriminate against any
114 member thereof or applicant for membership because such individual has opposed any practice made an
115 unlawful discriminatory practice by this chapter or because such individual has made a charge, testified,
116 assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

117 8. An employer, labor organization, employment agency, or joint apprenticeship committee controlling an
118 apprenticeship or other training program to print or publish, or cause to be printed or published, any notice or
119 advertisement relating to (i) employment by such an employer, (ii) membership in or any classification or
120 referral for employment by such a labor organization, (iii) any classification or referral for employment by
121 such an employment agency, or (iv) admission to, or employment in, any program established to provide

apprenticeship or other training by such a joint apprenticeship committee that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or ethnic or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, age, or ethnic or national origin when religion, sex, age, or ethnic or national origin is a bona fide occupational qualification for employment.

C. Notwithstanding any other provision of this chapter, it is not an unlawful discriminatory practice:

1. For (i) an employer to hire and employ employees; (ii) an employment agency to classify, or refer for employment, any individual; (iii) a labor organization to classify its membership or to classify or refer for employment any individual; or (iv) an employer, labor organization, or joint apprenticeship committee to admit or employ any individual in any apprenticeship or other training program on the basis of such individual's religion, sex, or age in those certain instances where religion, sex, or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular employer, employment agency, labor organization, or joint apprenticeship committee;

2. For an elementary or secondary school or institution of higher education to hire and employ employees of a particular religion if such elementary or secondary school or institution of higher education is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society or if the curriculum of such elementary or secondary school or institution of higher education is directed toward the propagation of a particular religion;

3. For an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment, pursuant to a bona fide seniority or merit system, or a system that measures earnings by quantity or quality of production, or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or ethnic or national origin;

4. For an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or an action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or ethnic or national origin;

5. For an employer to provide reasonable accommodations related to disability, pregnancy, childbirth or related medical conditions, and lactation, when such accommodations are requested by the employee; or

6. For an employer to condition employment or premises access based upon citizenship where the employer is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute or regulation of the federal government or any executive order of the President of the United States.

D. Nothing in this chapter shall be construed to require any employer, employment agency, labor organization, or joint apprenticeship committee to grant preferential treatment to any individual or to any group because of such individual's or group's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or ethnic or national origin on account of an imbalance that may exist with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or ethnic or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or ethnic or national origin in any community.

E. The provisions of this section shall not apply to the employment of individuals of a particular religion by a religious corporation, association, educational institution, or society to perform work associated with its activities.

§ 2.2-3907. Procedures for a charge of unlawful discrimination; notice; investigation; report; conciliation; notice of the right to file a civil action; temporary relief.

A. Any person claiming to be aggrieved by an unlawful discriminatory practice may file a complaint in writing under oath or affirmation with the Office of Civil Rights of the Department of Law (the Office). Unless otherwise stated in this chapter, a complaint alleging a violation of this chapter or federal statutes governing discrimination in employment that also falls under the jurisdiction of this chapter shall be filed with the Office no later than ~~300 days~~ *two years* from the day upon which the alleged discriminatory practice occurred. The Office itself may in a like manner initiate such a complaint. The complaint shall be in such detail as to substantially apprise any party properly concerned as to the time, place, and facts surrounding the alleged unlawful discrimination.

B. Upon perfection of a complaint filed pursuant to subsection A, the Office shall timely serve a charge on

184 the respondent and provide all parties with a notice informing the parties of the complainant's rights,
185 including the right to commence a civil action, and the dates within which the complainant may exercise such
186 rights. In the notice, the Office shall notify the complainant that the charge of unlawful discrimination will be
187 dismissed with prejudice and with no right to further proceed if a written complaint is not timely filed with
188 the appropriate general district or circuit court.

189 C. The complainant and respondent may agree to voluntarily submit the charge to mediation without
190 waiving any rights that are otherwise available to either party pursuant to this chapter and without incurring
191 any obligation to accept the result of the mediation process. Nothing occurring in mediation shall be disclosed
192 by the Office or admissible in evidence in any subsequent proceeding unless the complainant and the
193 respondent agree in writing that such disclosure be made.

194 D. Once a charge has been issued, the Office shall conduct an investigation sufficient to determine
195 whether there is reasonable cause to believe the alleged discrimination occurred. Such charge shall be the
196 subject of a report made by the Office. The report shall be a confidential document subject to review by the
197 Attorney General, authorized Office employees, and the parties. The review shall state whether there is
198 reasonable cause to believe the alleged unlawful discrimination has been committed.

199 E. If the report on a charge of discrimination concludes that there is no reasonable cause to believe the
200 alleged unlawful discrimination has been committed, the charge shall be dismissed and the complainant shall
201 be given notice of his right to commence a civil action.

202 F. If the report on a charge of discrimination concludes that there is reasonable cause to believe the
203 alleged unlawful discrimination has been committed, the complainant and respondent shall be notified of
204 such determination and the Office shall immediately endeavor to eliminate any alleged unlawful
205 discriminatory practice by informal methods such as conference, conciliation, and persuasion. When the
206 Office determines that further endeavor to settle a complaint by conference, conciliation, and persuasion is
207 unworkable and should be bypassed, the Office shall issue a notice that the case has been closed and the
208 complainant shall be given notice of his right to commence a civil action.

209 G. At any time after a notice of charge of discrimination is issued, the Office or complainant may petition
210 the appropriate court for temporary relief, pending final determination of the proceedings under this section,
211 including an order or judgment restraining the respondent from doing or causing any act that would render
212 ineffectual an order that a court may enter with respect to the complainant. Whether it is brought by the
213 Office or by the complainant, the petition shall contain a certification by the Office that the particular matter
214 presents exceptional circumstances in which irreparable injury will result from unlawful discrimination in the
215 absence of temporary relief.

216 H. Upon receipt of a written request from the complainant, the Office shall promptly issue a notice of the
217 right to file a civil action to the complainant after (i) 180 days have passed from the date the complaint was
218 filed or (ii) the Office determines that it will be unable to complete its investigation within 180 days from the
219 date the complaint was filed. If the Office fails to issue such a notice pursuant to the provisions of this
220 subsection, the complainant may commence a timely civil action as provided in § 2.2-3908.

221 I. For any complaint or charge of discrimination for which the complainant has received a Notice of Right
222 to Sue from the E.E.O.C., the general district or circuit court having jurisdiction shall accept the E.E.O.C.
223 Notice of Right to Sue as a notice of the right to file a civil action under subsection H.