

SENATE BILL NO. 361

INTRODUCED BY J. FULLER, C. GLIMM

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING DISCRIMINATION CONCERNING FIREARMS IN FINANCE, INVESTMENTS, INSURANCE, AND STATE CONTRACTS; PROVIDING A LEGISLATIVE STATEMENT OF PURPOSE REGARDING IMPLEMENTATION OF THE MONTANA CONSTITUTION BY THIS ACT; PROVIDING DEFINITIONS; PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Purpose.** The purpose of [sections 1 through 44-98] is to prohibit discrimination against individuals, groups, associations, or businesses in matters concerning firearms, insofar as any discrimination may involve finance, lending AND credit, ~~insurance, and state investment~~ concerning manufacture, distribution, sale, or possession of firearms, firearm ammunition, or firearms accessories.

**NEW SECTION. Section 2. Legislative findings.** The legislature finds as follows:

(1) The right to keep or bear arms is a natural right that the people have memorialized and reserved to themselves at Article II, section 12, of the Montana constitution.

(2) The right to keep or bear arms is a fundamental and individual right of all law-abiding adults.

(3) Discrimination because of civil or political rights is prohibited by Article II, section 4, of the Montana constitution.

(4) The right to keep or bear arms is a civil or political right within the meaning of Article II, section 4, of the Montana constitution.

**NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 44-98], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Ammunition" means and includes projectiles for firearms, cartridge cases, small arms primers, propellant, and any combination thereof.

(2) "Certificate of nondiscrimination" means a document signed by a responsible party certifying that a person or entity does not now and will not in the future discriminate against any person or entity because of firearms. A certificate of nondiscrimination may also be a paragraph in a binding contract with a person or entity certifying that a person or entity does not now and will not in the future discriminate against any person or entity because of firearms.

(3) (a) "Discriminate against any person or entity because of firearms" or "discriminate because of firearms" means to have an ongoing practice, policy, guidance, or directive to:

(i) refuse to engage in the trade of any goods or services with an entity or association based solely on its status as a firearm entity or firearm trade association, which includes the lawful products and services provided by and the lawful practices of a firearm entity and firearm trade association;

(ii) refrain from continuing an existing business relationship with an entity or association based solely on its status as a firearm entity or firearm trade association, which includes the lawful products and services provided by and the lawful practices of a firearm entity and firearm trade association;

(iii) terminate an existing business relationship with an entity or association based solely on its status as a firearm entity or firearm trade association, which includes the lawful products and services provided by and the lawful practices of a firearm entity and firearm trade association;

(iv) refuse to engage in the trade of any goods or services with an individual based solely on that individual's status as a lawful owner of firearms or based solely on lawful statements the individual has made regarding firearms;

(v) refrain from continuing an existing business relationship with an individual based solely on that individual's status as a lawful owner of firearms or based solely on lawful statements the individual has made regarding firearms; or

(vi) terminate an existing business relationship with an individual based solely on that individual's status as a lawful owner of firearms or based solely on lawful statements the individual has made regarding firearms.

(b) The term does not include:

(i) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to

comply with federal, state, or local laws, policies, or regulations, a directive by a regulatory agency, or for any traditional business reason that is specific to the customer or potential customer and not based solely on any firearm-related status or statements of the customer or potential customer;

(ii) the policies of a vendor, merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearms accessories; or

(iii) any action, prohibition, or restriction on firearms that is allowed by 45-8-356, including an express prohibition of firearms by any entity described in 45-8-356.

~~(3)~~(4) "Entity" means a business, corporation, nonprofit corporation, partnership, limited liability company, or other business venture, but not an individual or sole proprietorship.

~~(4)~~(5) "Firearm" means a device intended and designed to expel one or multiple projectiles by the action of air pressure, spring power, or chemical combustion of a propellant.

(6) "Firearm entity" means:

(a) a firearm or a firearm accessory or ammunition manufacturer, distributor, wholesaler, supplier, or retailer; or

(b) a gun range.

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

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

(b) has two or more firearm entities as members; and

(c) is exempt from federal income taxation under section 501(a) of the Internal Revenue Code of 1986, as an organization described by section 501(c) of that code.

~~(5)~~(8) "Firearms accessories" means any parts that may be attached to or used with firearms, including but not limited to scopes and other aiming devices, stocks, magazines, slings, parts to repair or improve firearms, written materials about firearms, computer code to make firearms or firearm parts, and other parts.

NEW SECTION. Section 4. Nondiscrimination in credit. Any person or entity that offers financial

credit, ~~or~~ credit services, or litigation financing, and is seeking license or permission to do business in the state shall, upon application for license or permission, provide the secretary of state and the division of banking and financial institutions with a certificate of nondiscrimination. An application without a certificate of nondiscrimination is incomplete and may not be processed or accepted.

~~NEW SECTION. Section 5. — Nondiscrimination in state investments. An entity that does not provide a certificate of nondiscrimination for investment or reinvestment of state or state political subdivision funds is ineligible to receive, manage, invest, or reinvest such funds. The board of investments may not conclude any investment arrangement with any entity unless that entity has provided a certificate of nondiscrimination.~~

NEW SECTION. Section 5. State contracts. The state and any political subdivision of the state may not enter into any contract with a provider of goods and services valued at \$100,000 or more in any calendar year unless the provider has presented a certificate of nondiscrimination.

~~NEW SECTION. Section 7. — Insurance. The state auditor may not approve any entity for provision or sale of insurance, reinsurance, or insurance services in the state unless the entity has provided the state auditor with a certificate of nondiscrimination.~~

NEW SECTION. Section 6. Public records. The certificates of nondiscrimination required under [sections 1 through 44-~~9 8~~] are public records and must be available for inspection by any member of the public during normal business hours.

NEW SECTION. Section 7. Prohibition -- penalty -- enforcement. Any entity operating in conflict with [sections 1 through 44-~~9 8~~] violates the state policy of nondiscrimination. For each violation, an entity or its principal may be fined an amount not to exceed \$5,000. Each day a violation occurs or continues is a separate offense. The attorney general or any county attorney may seek orders from a district court to enforce the provisions of [sections 1 through 44-~~9 8~~].

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2        NEW SECTION. Section 8. Exclusion for employment. [Sections 1 through 44-9 8] do not apply to  
3 an employer and employee contract or to workplace policies adopted by an employer.

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5        ~~NEW SECTION. Section 9. Private enforcement. Any person injured because of a violation of~~  
6 ~~[sections 1 through 11 9] may bring suit in district court seeking injunctive relief, compensatory damages,~~  
7 ~~punitive damages, and other orders of the court to enforce the provisions of [sections 1 through 11 9]. A plaintiff~~  
8 ~~who prevails in such a suit must be awarded court costs and reasonable attorney fees.~~

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10        NEW SECTION. Section 9. Codification instruction. [Sections 1 through 44-9 8] are intended to be  
11 codified as an integral part of Title 30, chapter 20, and the provisions of Title 30, chapter 20, apply to [sections  
12 1 through 44-9 8].

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14        NEW SECTION. Section 10. Saving clause. [This act] does not affect rights and duties that  
15 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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17        NEW SECTION. Section 11. Severability. If a part of [this act] is invalid, all valid parts that are  
18 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
19 the part remains in effect in all valid applications that are severable from the invalid applications.

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21        NEW SECTION. Section 12. Applicability. [This act] applies to agreements and contracts entered  
22 into by the state on or after [the effective date of this act].

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