

HOUSE BILL 521

P2

5lr0698

By: **Delegate Rosenberg**

Introduced and read first time: January 22, 2025

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Procurement – Commercial Nondiscrimination Policy – Antisemitism**

3 FOR the purpose of altering certain provisions of State procurement law prohibiting
4 discrimination based on certain protected characteristics to include prohibitions
5 against antisemitism; and generally relating to prohibitions against antisemitism in
6 State procurement contracts.

7 BY repealing and reenacting, without amendments,
8 Article – State Finance and Procurement
9 Section 19–101, 19–102, and 19–104
10 Annotated Code of Maryland
11 (2021 Replacement Volume and 2024 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – State Finance and Procurement
14 Section 19–103 and 19–115
15 Annotated Code of Maryland
16 (2021 Replacement Volume and 2024 Supplement)

17 Preamble

18 WHEREAS, Antisemitism is on the rise in the United State and is impacting Jewish
19 communities in Maryland; and

20 WHEREAS, The International Holocaust Remembrance Alliance (IHRA) Working
21 Definition of Antisemitism, which has been adopted by the U.S. Department of State, is a
22 vital tool that helps individuals understand and identify the various manifestations of
23 antisemitism; and

24 WHEREAS, On December 11, 2019, Executive Order 13899 extended federal
25 protections against discrimination under the Civil Rights Act of 1964 to individuals

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 subjected to antisemitism on college and university campuses and tasked federal agencies
2 to consider the IHRA Working Definition of Antisemitism when enforcing Title VI of the
3 Act; and

4 WHEREAS, The IHRA Working Definition of Antisemitism states, “Antisemitism is
5 a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical
6 and physical manifestations of antisemitism are directed toward Jewish or non-Jewish
7 individuals and/or their property, toward Jewish community institutions and religious
8 facilities.”; and

9 WHEREAS, The use of alternative definitions of antisemitism impairs enforcement
10 efforts by adding multiple standards and may fail to identify many of the modern
11 manifestations of antisemitism; and

12 WHEREAS, On May 25, 2023, the White House released the first-ever U.S. National
13 Strategy to Counter Antisemitism, making clear that the fight against this hate is a
14 national, bipartisan priority that must be successfully conducted through a
15 whole-of-government-and-society approach; now, therefore,

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That the Laws of Maryland read as follows:

18 **Article – State Finance and Procurement**

19 19–101.

20 (a) It is the policy of the State not to enter into a contract with any business entity
21 that has discriminated in the solicitation, selection, hiring, or commercial treatment of
22 vendors, suppliers, subcontractors, or commercial customers on the basis of race, color,
23 religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender
24 identity, or on the basis of disability or any otherwise unlawful use of characteristics
25 regarding the vendor’s, supplier’s, or commercial customer’s employees or owners.

26 (b) Nothing in this title shall be construed to prohibit or limit otherwise lawful
27 efforts to remedy the effects of discrimination that have occurred or are occurring in the
28 marketplace.

29 (c) A complaint of discrimination shall be filed within 4 years after the date the
30 cause of action accrues.

31 19–102.

32 It is the intent of the State to avoid becoming a passive participant in private sector
33 commercial discrimination by refusing to procure goods and services from business entities
34 that discriminate in the solicitation, selection, hiring, or commercial treatment of vendors,
35 suppliers, subcontractors, or commercial customers on the basis of race, color, religion,
36 ancestry or national origin, sex, age, marital status, gender identity, sexual orientation, or

1 on the basis of disability or other unlawful forms of discrimination by providing a procedure
2 for receiving, investigating, and resolving complaints of discrimination filed against
3 business entities that:

4 (1) have submitted a bid or proposal; or

5 (2) have been selected to engage in, or are engaged in, providing goods or
6 services to the State.

7 19–103.

8 (a) In this title the following words have the meanings indicated.

9 (b) “Administrative law judge” means the individual assigned by the Office of
10 Administrative Hearings to conduct a hearing under this title.

11 (c) **“ANTISEMITISM” MEANS A CERTAIN PERCEPTION OF JEWS, WHICH MAY**
12 **BE EXPRESSED AS HATRED TOWARD JEWS, INCLUDING RHETORICAL AND PHYSICAL**
13 **MANIFESTATIONS DIRECTED TOWARD:**

14 **(1) JEWISH OR NON–JEWISH INDIVIDUALS OR THEIR PROPERTY; OR**

15 **(2) JEWISH COMMUNITY INSTITUTIONS AND RELIGIOUS**
16 **INSTITUTIONS.**

17 **(D)** (1) “Business entity” means any person, as defined in § 1–101(d) of this
18 article, firm, sole proprietorship, partnership, corporation, limited liability company, or
19 other business entity or a combination of any of these entities, including any financial
20 institution, developer, consultant, prime contractor, subcontractor, supplier, or vendor,
21 that has submitted a bid or proposal for, has been selected to engage in, or is engaged in
22 providing goods or services to the State.

23 (2) “Business entity” does not include another governmental entity that is
24 subject to Title VI of the Civil Rights Act of 1964.

25 **[(d)] (E)** “Commercial customer” means a business entity that procured or
26 attempted to procure goods or services from a business entity for business as opposed to
27 personal, family, or household use.

28 **[(e)] (F)** “Commercial Nondiscrimination Policy” means the provisions
29 contained under this title and any regulations or documentation requirements adopted by
30 the Commission on Civil Rights in accordance with this title.

31 **[(f)] (G)** (1) “Commercial treatment” means the treatment of a vendor,
32 supplier, subcontractor, or commercial customer by a business entity that affects the

1 conduct of business and the terms and conditions under which business is transacted
2 between two or more business entities.

3 (2) “Commercial treatment” does not mean treatment that is unrelated to
4 a business transaction or the conduct of business.

5 [(g)] (H) “Commission” means the Commission on Civil Rights.

6 [(h)] (I) “Commission staff” means employees of the Commission on Civil Rights
7 designated by the Commission to process, investigate, and pursue complaints filed under
8 this title.

9 [(i)] (J) “Contract” means an agreement with a business entity that is let by or
10 on behalf of the State for that business entity to sell or lease supplies or goods, or to provide
11 construction, real estate development, financial, insurance, professional, or other services
12 to the State in return for a fee or any other form of compensation to be paid or provided by
13 the State.

14 [(j)] (K) (1) “Discrimination” means any disadvantage, difference,
15 distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a
16 vendor, supplier, subcontractor, or commercial customer on the basis of race, color, religion,
17 ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, or
18 on the basis of disability or any otherwise unlawful use of characteristics regarding the
19 vendor’s, supplier’s, or commercial customer’s employees or owners.

20 (2) “Discrimination” does not include lawful efforts to remedy the effects of
21 discrimination that have occurred or are occurring in the marketplace.

22 [(k)] (L) “Economic development project” means a real estate development,
23 construction, or renovation project for which the State provides:

24 (1) funding or other financial assistance, other than payments in exchange
25 for goods or services;

26 (2) land;

27 (3) road improvements;

28 (4) tax credits; or

29 (5) a below market purchase price.

30 [(l)] (M) (1) “Financial institution” means a person:

31 (i) engaged in the business of lending money, guaranteeing loans,
32 extending credit, securing bonds, or providing venture or equity capital; or

1 (ii) that offers financial services in connection with State projects or
2 the administration of State government.

3 (2) “Financial institution” includes banks, savings and loans, venture
4 capital companies, insurance companies, bonding companies, mortgage companies, credit
5 unions, and brokers.

6 ~~[(m)]~~ (N) “Party” means:

7 (1) the person who has filed a complaint under this title;

8 (2) the respondent business entity that has been alleged to have violated
9 this title; and

10 (3) the Commission that is responsible for investigating the complaint and
11 rendering the initial findings.

12 ~~[(n)]~~ (O) “Retaliate” means to take any action that has a material negative effect
13 against any person, business or other entity for reporting any incident of discrimination,
14 testifying as a witness at a hearing, or providing requested assistance to Commission staff
15 in any investigation of an incident of discrimination under this title.

16 ~~[(o)]~~ (P) “Services” includes construction, real estate development, financial,
17 insurance, professional, and other services.

18 ~~[(p)]~~ (Q) “State subcontract” means an agreement for the provision of goods or
19 the performance of a particular portion of work to be performed under a contract with the
20 State, where:

21 (1) the party providing the goods or services is on reasonable notice that
22 the work is to be performed under a State contract; and

23 (2) the amount to be paid for such goods and services is material with
24 respect to the overall amount of the contract.

25 ~~[(q)]~~ (R) “State subcontractor” means the party providing goods or services
26 under a State subcontract.

27 19–104.

28 (a) As a condition of participating in an economic development project, the State
29 shall require the governmental entity, quasi–governmental entity, corporation, developer,
30 or contractor that receives assistance from the State to comply with this title:

31 (1) in administering the economic development project; and

1 (2) in awarding contracts to manage or perform the work entailed in the
2 economic development project.

3 (b) (1) Each contract and subcontract awarded in connection with an economic
4 development project shall contain the nondiscrimination clause set forth in § 19–115 of this
5 title.

6 (2) Any claim of discrimination relating to the economic development
7 project shall be subject to investigation and adjudication by the State in accordance with
8 this title.

9 (c) This title does not apply to:

10 (1) other than a lease of real estate for the State's use, any real property
11 acquisition by the State, including property subject to condemnation;

12 (2) settlement of litigation;

13 (3) except for proceedings to enforce this title, settlement of judicial or
14 administrative enforcement proceedings by or on behalf of the State; and

15 (4) agreements concerning standards for locating facilities in a State
16 right-of-way when a business entity has a statutory right to be in the right-of-way.

17 19–115.

18 All requests for bids or proposals issued for State contracts shall include the
19 following certification to be completed by the bidder:

20 "The undersigned bidder hereby certifies and agrees that the following information
21 is correct:

22 In preparing its bid on this project, the bidder has considered all proposals submitted
23 from qualified, potential subcontractors and suppliers, and has not engaged in
24 "discrimination" as defined in § 19–103 of the State Finance and Procurement Article of the
25 Annotated Code of Maryland; to wit: discrimination in the solicitation, selection, or
26 commercial treatment of any subcontractor, vendor, supplier, or commercial customer on
27 the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual
28 orientation, gender identity, or on the basis of disability or other unlawful forms of
29 discrimination. **WITHOUT LIMITING THE FOREGOING, "DISCRIMINATION" ALSO**
30 **INCLUDES ANTISEMITISM AS DEFINED IN § 19–103 OF THE STATE FINANCE AND**
31 **PROCUREMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND.** Without
32 limiting the foregoing, "discrimination" also includes retaliating against any person or
33 other entity for reporting any incident of "discrimination". Without limiting any other
34 provision of the solicitation for bids on this project, it is understood and agreed that, if this
35 certification is false, such false certification will constitute grounds for the State to reject
36 the bid submitted by the bidder on this project, and terminate any contract awarded based

1 on the bid. As part of its bid or proposal, the bidder shall provide to the State a list of all
2 instances within the immediate past 4 years where there has been a final adjudicated
3 determination in a legal or administrative proceeding in the State of Maryland that the
4 bidder discriminated against its subcontractors, vendors, suppliers, or commercial
5 customers, and a description of the status or resolution of that complaint, including any
6 remedial action taken. As a condition of submitting a bid or proposal to the State, the bidder
7 agrees to comply with the State's Commercial Nondiscrimination Policy as described under
8 Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.”.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2025.