

MARYLAND RETAILERS ALLIANCE

The Voice of Retailing in Maryland



HB1261 Employment Discrimination - Intent **House Economic Matters Committee** **February 27, 2025**

Position: Unfavorable

Summary: Prohibiting certain acts that have a discriminatory effect, regardless of the actor's intent, in employment by any person; and providing that a person who unintentionally violates a certain provision of law has not committed an unlawful employment practice if the violation was justified by a legitimate business necessity and there was no other less discriminatory means of accomplishing that business necessity.

Written Comments: The Maryland Retailers Alliance (MRA) writes in opposition to this proposed legislation, but we want to make it absolutely clear that we do not support discrimination in any form. We strongly believe that intent and the right to cure in employment disputes are critical, and these considerations are recognized within areas of public accommodation law as well as by the Commission on Civil Rights.

There are situations in employment practices where intent plays a key role in determining whether discrimination occurred. For example, an employer may attempt to accommodate an employee with a disability, but if the accommodation cannot be made, and the employer ultimately has to let the employee go or chooses not to hire them, the intent was not to discriminate. Similarly, if a rogue employee engages in discriminatory behavior during the hiring process, and the employer takes immediate action to fire the individual upon learning of the incident, this should be considered in the context of intent.

In these scenarios, intent is a crucial factor, as the employer did not have discriminatory intent and made efforts to rectify the situation. It is essential that intent is considered when evaluating such instances, and employers should be given the opportunity to demonstrate their commitment to rectifying situations where discrimination was not intentional. While the bill does clarify that unintentional discriminatory actions are not in violation of the law if there is no nondiscriminatory alternative, we believe that the right to cure should also be included to allow businesses to rectify unintentional violations before penalties are incurred.

MRA stands firmly against all forms of discrimination and such practices. However, we strongly advocate for the consideration of intent in employment disputes as it plays an important role in determining fairness and accountability. Thank you for your consideration.