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NFIB-Maryland – 60 West St., Suite 101 – Annapolis, MD 21401 – [www.NFIB.com/Maryland](http://www.NFIB.com/Maryland)

TO: House Economic Matters Committee

FROM: NFIB – Maryland

DATE: February 27, 2025

RE: **OPPOSE HOUSE BILL 1261** – Employment Discrimination - Intent

Founded in 1943, NFIB is the voice of small business, advocating on behalf of America's small and independent business owners, both in Washington, D.C., and in all 50 state capitals. With more than 250,000 members nationwide, and nearly 4,000 here in Maryland, we work to protect and promote the ability of our members to grow and operate their business.

On behalf of Maryland's small businesses, NFIB opposes House Bill 1261 – legislation which would effectively take away the requirement that a harm go along with an ill intent regarding employment discrimination.

Instead, HB1261 treats *any* unfavorable outcome for an individual or group as though it were done on purpose. A "discriminatory effect" is not defined in the legislation and could mean anything. This opens an endless number of opportunities for plaintiff lawsuits.

An example, a small HVAC owner passes over a National Guardsman for an advanced training opportunity because the Guardsman already received similar training in the armed forces. The business owner is sued because the Guardsman believes he was passed over because of his military status. Being passed over is the "discriminatory effect". The small business owner must now prove the training opportunity was given to someone else because it was a "legitimate business necessity" *and* there was no other "less discriminatory means of accomplishing [the] business necessity". A judge can now speculate on what a "less discriminatory" choice could have been. The reality in this case is the owner simply wanted to give the opportunity to a lesser trained employee.

This bill would have a chilling effect on all areas of employment law and make the simplest of business decisions fraught with legal implications.

For these reasons, **NFIB opposes HB1261** and requests an unfavorable report.