

HOUSE BILL 429

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By: **Delegates Barron, Acevero, Carr, Ebersole, Feldmark, Fraser-Hidalgo, Guyton, Hettleman, Kelly, R. Lewis, Love, Palakovich Carr, Shetty, Solomon, Stewart, Terrasa, Valderrama, C. Watson, K. Young, and P. Young**
Introduced and read first time: January 23, 2020
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Human Relations – Places of Public Accommodation – Pricing of Goods and**
3 **Services**

4 FOR the purpose of prohibiting the owner or operator of a place of public accommodation
5 or an agent or employee of the owner or operator from selling or offering for sale
6 certain substantially similar products or services if the products or services are
7 priced differently based on gender; providing that a certain violation is within the
8 scope of the enforcement duties and powers of the Division of Consumer Protection
9 of the Office of the Attorney General; defining certain terms; and generally relating
10 to pricing of goods and services in places of public accommodation.

11 BY repealing and reenacting, without amendments,
12 Article – State Government
13 Section 20–301 and 20–1016
14 Annotated Code of Maryland
15 (2014 Replacement Volume and 2019 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – State Government
18 Section 20–304
19 Annotated Code of Maryland
20 (2014 Replacement Volume and 2019 Supplement)

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

23 **Article – State Government**

24 20–301.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



In this subtitle, “place of public accommodation” means:

(1) an inn, hotel, motel, or other establishment that provides lodging to transient guests;

(2) a restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food or alcoholic beverages for consumption on or off the premises, including a facility located on the premises of a retail establishment or gasoline station;

(3) a motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment;

(4) a retail establishment that:

(i) is operated by a public or private entity; and

(ii) offers goods, services, entertainment, recreation, or transportation; or

(5) an establishment:

(i) 1. that is physically located within the premises of any other establishment covered by this subtitle; or

2. within the premises of which any other establishment covered by this subtitle is physically located; and

(ii) that holds itself out as serving patrons of the covered establishment.

20–304.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CONSUMER PRODUCT” MEANS A GOOD USED FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES.

(3) (I) “SUBSTANTIALLY SIMILAR” MEANS:

1. WITH RESPECT TO CONSUMER PRODUCTS, THERE IS NO SUBSTANTIAL DIFFERENCE IN THE MATERIALS USED IN THE CONSUMER PRODUCT, THE INTENDED USES OF THE CONSUMER PRODUCT, AND THE FUNCTIONAL DESIGN AND FEATURES OF THE CONSUMER PRODUCT; OR

1 **2. WITH RESPECT TO SERVICES, THERE IS NO**
2 **SUBSTANTIAL DIFFERENCE IN THE AMOUNT OF TIME NEEDED TO PROVIDE THE**
3 **SERVICES, THE DIFFICULTY IN PROVIDING THE SERVICES, OR THE COST OF**
4 **PROVIDING THE SERVICES.**

5 **(II) “SUBSTANTIALLY SIMILAR” MAY INCLUDE TWO CONSUMER**
6 **PRODUCTS FOR WHICH THERE IS A DIFFERENCE IN COLORING.**

7 **(B)** An owner or operator of a place of public accommodation or an agent or
8 employee of the owner or operator may not:

9 **(1)** refuse, withhold from, or deny to any person any of the
10 accommodations, advantages, facilities, or privileges of the place of public accommodation
11 because of the person’s race, sex, age, color, creed, national origin, marital status, sexual
12 orientation, gender identity, or disability;

13 **(2)** SELL OR OFFER FOR SALE ANY TWO CONSUMER PRODUCTS FROM
14 THE SAME MANUFACTURER THAT ARE SUBSTANTIALLY SIMILAR IF THE PRODUCTS
15 ARE PRICED DIFFERENTLY BASED ON THE GENDER OF THE INDIVIDUALS FOR
16 WHOSE USE THE PRODUCTS ARE INTENDED OR MARKETED; OR

17 **(3)** SELL OR OFFER FOR SALE ANY TWO SERVICES THAT ARE
18 SUBSTANTIALLY SIMILAR IF THE SERVICES ARE PRICED DIFFERENTLY BASED ON
19 THE GENDER OF THE INDIVIDUALS FOR WHICH THE SERVICES ARE PERFORMED,
20 OFFERED, OR MARKETED.

21 **(C)** A VIOLATION OF SUBSECTION (B)(2) OR (3) OF THIS SECTION IS WITHIN
22 THE SCOPE OF THE ENFORCEMENT DUTIES AND POWERS OF THE DIVISION OF
23 CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER
24 TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

25 20–1016.

26 (a) Except as provided in subsection (b) of this section, in addition to any other
27 relief authorized, if the Commission finds that a respondent has engaged in a
28 discriminatory act under Subtitle 3 or Subtitle 4 of this title, the Commission may seek an
29 order assessing a civil penalty against the respondent:

30 (1) if the respondent has not been adjudicated to have committed any prior
31 discriminatory act, in an amount not exceeding \$500;

32 (2) if the respondent has been adjudicated to have committed one other
33 discriminatory act during the 5–year period ending on the date of the filing of the current
34 charge, in an amount not exceeding \$1,000; and

1 (3) if the respondent has been adjudicated to have committed two or more
2 discriminatory acts during the 7-year period ending on the date of the filing of the current
3 charge, in an amount not exceeding \$2,500.

4 (b) If the discriminatory act is committed by an individual who has been
5 previously adjudicated to have committed one or more discriminatory acts, the time periods
6 set forth in subsection (a)(2) and (3) of this section do not apply.

7 (c) Any civil penalties collected under this section shall be paid to the General
8 Fund of the State.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2020.