

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 916
SENATE BILL 515

AN ACT PROHIBITING DISCRIMINATION IN BUSINESS BASED UPON FOREIGN TRADE RELATIONSHIPS AND CERTAIN OTHER FACTORS.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter is hereby added to the General Statutes to be designated as Chapter 75B and to read as follows:

"CHAPTER 75B.

"Discrimination in Business.

"§ 75B-1. Definitions. — The following words and phrases as used in this Chapter shall have the following meaning unless the context clearly requires otherwise:

- (1) 'business', the manufacture, processing, sale, purchase, licensing, distribution, provision, or advertising of goods or services, or extension of credit, or issuance of letters of credit, or any other aspect of business;
- (2) 'foreign government', all governments and political subdivisions and the instrumentalities thereof, excepting the government, political subdivisions, and instrumentalities of the United States and the states, commonwealths, territories and possessions of the United States, and the District of Columbia;
- (3) 'foreign person', any person whose principal place of residence, business or domicile is outside the United States, or any person controlled directly or indirectly by such person or persons; provided, however, that no person shall be deemed a foreign person if after reasonable inquiry and due diligence it cannot be determined that any such person has a principal place of residence, business, or domicile outside the United States or is controlled by such person;
- (4) 'foreign trade relationships', the dealing with or in any foreign country of any person, or being listed on a boycott list or compilation of unacceptable persons maintained by a foreign government, foreign person, or international organization;
- (5) 'international organization', any association or organization, with the exception of labor associations, or organizations of which more than a majority of the membership consists of foreign persons or foreign governments; and
- (6) 'persons', one or more of the following or their agents, employees, servants, representatives, directors, officers, partners, members, managers, superintendents, and legal representatives: individuals, corporations, partnerships, joint ventures, associations, labor organizations, educational institutions, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and all other entities recognized at law by this State.

"§ 75B-2. Discrimination in business prohibited. — It shall be unlawful for any person doing business in the State or for the State of North Carolina:

- (1) to enter into any agreement, contract, arrangement, combination, or understanding with any foreign government, foreign person, or international organization, which requires such person or the State to refuse, fail, or cease to do business in the State with any other person who is domiciled or has a usual place of business in the State, based upon such other person's race, color, creed, religion, sex, national origin or foreign trade relationships;
- (2) to execute in the State any contract with any foreign government, foreign person, or international organization which requires such person or the State to refuse, fail or cease to do business with another person who is domiciled or has a usual place of business in the State, based upon such other person's race, color, creed, religion, sex, national origin, or foreign trade relationships;
- (3) to refuse, fail or cease to do business in the State with any other person who is domiciled or has a usual place of business in the State or with the State when such refusal, failure, or cessation results directly or indirectly from an agreement, contract, arrangement, combination, or understanding between the person who refuses, fails or ceases to do business and any foreign government, foreign person, or international organization, and is based upon such other person's race, color, creed, religion, sex, national origin or foreign trade relationships;
- (4) to discharge or to fail, refuse or cease to hire, promote or appoint in the State any other person who is domiciled in the State to any position of employment or employment responsibility when such refusal, failure or cessation results from an agreement, contract, arrangement, combination, or understanding with any foreign government, foreign person, or international organization and is based upon such other person's race, color, creed, religion, sex, national origin, or foreign trade relationships;
- (5) to wilfully and knowingly aid or abet any other person to engage in conduct which is prohibited by this Chapter.

"§ 75B-3. Actions not prohibited. — It shall not be unlawful under this Chapter:

- (1) to engage in conduct required by or expressly authorized by acts of the United States Congress, a United States treaty, a United States regulation, or a United States executive order;
- (2) to enter into any agreement with an international organization entirely composed of member governments or their contracting representatives which requires that a preference or priority be given to the citizens or products of one or more of such member governments;
- (3) to enter into any agreement with respect to the insuring, handling, or shipping of goods, or choice of carrier while in international transit.

"§ 75B-4. Enforcement. — The Attorney General may institute a civil action to prevent or restrain violations of G.S. 75B-2.

A person injured by a violation of G.S. 75B-2 may maintain an action for damages or for an injunction or both against any person who has committed the violation.

In a proceeding under this section, the court shall determine whether a violation has been committed and enter any judgment or decree necessary to remove the effects of any violation it finds and to prevent continuation or renewal of the violation in the future.

If an application for an injunction is granted, after due notice to all parties, a hearing thereon, and as a disposition on the merits of such application, the complainant may be awarded costs and reasonable attorney's fees.

In an action for damages, if there is a wilful violation of G.S. 75B-2 the person injured may be awarded up to three times the amount of actual damages which results from the violation, with costs and reasonable attorney's fees.

"§ 75B-5. Remedies cumulative. — The remedies provided in this Chapter are cumulative.

"§ 75B-6. Contracts void. — Any provision of any contract or other document or other agreement which violates G.S. 75B-2 or which, if complied with by the person intended to be bound by the provision, would cause a violation of G.S. 75B-2 shall be null and void as being against the public policy of the State.

"§ 75B-7. Chapter not exclusive. — This Chapter shall not be deemed to supersede, restrict or otherwise limit the continuing applicability of the antitrust or anti-discrimination laws of the State."

Sec. 2. G.S. 1-52, as the same appears in the 1975 Cumulative Supplement to Volume 1A, is hereby amended by adding a new subsection as follows:

"(14) An action under Chapter 75B of the General Statutes, the action in regard to a continuing violation accrues at the time of the latest violation."

Sec. 3. This act shall become effective on January 1, 1978.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.