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OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 297
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Wiggam

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SUMMARY

- Prohibits a government entity from entering into a contract with a company for goods or services unless that contract has a written verification that the company does not discriminate against firearm trade entities or firearm trade associations.
- Applies the bill's provisions only to contracts entered into after its effective date, and only to contracts worth \$100,000 or more, that are with companies that have at least ten employees.
- Defines "firearm entity" as a shooting range, or a firearm, firearm accessory, or ammunition manufacturer, distributor, wholesaler, supplier, or retailer.
- Names the bill the Firearms Industry Nondiscrimination Act.

DETAILED ANALYSIS

Contract requirements with government entities

The bill, called the Firearms Industry Nondiscrimination Act, prohibits a government entity from entering into a contract with a company for goods or services unless that contract includes a written verification of the following:

- The company does not have any internal practice, policy, guidance, or directive, written or unwritten, that discriminates against a firearm entity or firearm trade association (defined below); and
- The company will not discriminate against a firearm entity or firearm trade association during the term of the contract.

A "firearm entity" is defined as a shooting range, or as a manufacturer, distributor, wholesaler, supplier, or retailer of firearms, firearm accessories, or ammunition. The bill defines "trade association" as a corporation, unincorporated association, federation, business league, or professional or business organization, which meets the following criteria:

- It is not organized or operated for profit;
- No part of the net earnings of the entity inures to the benefit of any private shareholder or individual;
- The entity is a 501(c)(6) organization – i.e., a “business league”;¹ and
- Two or more members of the entity are manufacturers or sellers of firearms, firearm components, or ammunition that have been shipped or transported in interstate or foreign commerce.²

The bill’s provisions only apply to contracts entered into after the bill’s effective date, that are between a governmental entity and a company with ten or more full-time employees (an employee that works at least 25 hours a week), and has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

The bill defines a “governmental entity” as the state of Ohio, including the General Assembly, the Supreme Court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, colleges and universities, institutions, and other instrumentalities of the state of Ohio. “Governmental entity” also includes political subdivisions, which are counties, townships, municipal corporations, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.³

The bill states that the provisions contained in the bill are severable. Any invalid or potentially invalid provision contained in the bill does not impair the immediate and continuing enforceability of the remaining provisions.⁴

COMMENT

The home rule amendment of the Ohio Constitution grants municipal corporations “all powers of local self-government.”⁵ Matters of purchasing goods and services for the municipal corporation generally are considered “a power of local self-government.”⁶ Because the bill seeks to limit a municipal corporation’s contracting abilities, a reviewing court may determine it to be unconstitutional as applied to municipal corporations.

¹ 26 United States Code (U.S.C.) 501(c)(6).

² “Qualified product” means a firearm, including any antique firearm, or ammunition, or a component part of a firearm or ammunition, that has been shipped or transported in interstate or foreign commerce (15 U.S.C. 7903(4)).

³ R.C. 9.681; Section 2.

⁴ Section 3; See also R.C. 1.50, not in the bill.

⁵ Ohio Constitution, Article XVIII, Section 3.

⁶ *Dies Elec. Co. v. Akron*, 62 Ohio St.2d 322 (1980); *City of Toledo v. State*, 2019-Ohio-1681 (6th Dist.).

HISTORY

Action	Date
Introduced	05-11-21
