**South Carolina General Assembly**

124th Session, 2021-2022

**H. 3238**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Garvin, Cobb‑Hunter, Thigpen, J.L. Johnson, Dillard, Brawley, Matthews and Tedder

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Introduced in the House on January 12, 2021

Currently residing in the House Committee on **Judiciary**

Summary: Discrimination

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/9/2020 House Prefiled

12/9/2020 House Referred to Committee on **Judiciary**

1/12/2021 House Introduced and read first time ([House Journal‑page 125](file:///h:\hj\20210112.docx))

1/12/2021 House Referred to Committee on **Judiciary** ([House Journal‑page 125](file:///h:\hj\20210112.docx))

1/14/2021 House Member(s) request name added as sponsor: J.L.Johnson

2/18/2021 House Member(s) request name added as sponsor: Dillard

2/23/2021 House Member(s) request name added as sponsor: Brawley, Matthews

5/4/2021 House Member(s) request name added as sponsor: Tedder

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**VERSIONS OF THIS BILL**

[12/9/2020](file:///p:\pprever\2021-22\3238_20201209.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 31‑21‑65, 59‑63‑41, AND 45‑9‑11 SO AS TO MAKE IT UNLAWFUL AND AGAINST PUBLIC POLICY OF THIS STATE IN HOUSING, EDUCATION, AND PUBLIC ACCOMMODATIONS TO DISCRIMINATE ON THE BASIS OF RACE, COLOR, OR NATIONAL ORIGIN, INCLUDING DISCRIMINATING AGAINST CERTAIN FACIAL FEATURES, HAIR TEXTURES, HAIR TYPES, AND HAIR STYLES ASSOCIATED WITH RACE; TO AMEND SECTION 1‑13‑30, AS AMENDED, RELATING TO DEFINITIONS, SO AS TO ADD CLARIFYING DEFINITIONS TO MAKE IT UNLAWFUL AND AGAINST PUBLIC POLICY OF THIS STATE IN EMPLOYMENT TO DISCRIMINATE ON THE BASIS OF RACE, COLOR, OR NATIONAL ORIGIN; AND TO AMEND SECTION 1‑13‑80, AS AMENDED, RELATING TO EXCEPTIONS TO UNLAWFUL EMPLOYMENT PRACTICES, SO AS TO PROVIDE AN EXCEPTION TO COVERED EMPLOYERS ALLOWING THEM TO PROHIBIT CERTAIN FACIAL FEATURES, HAIR TEXTURES, HAIR TYPES, AND HAIRSTYLES ASSOCIATED WITH RACE WHEN NECESSARY TO THE HEALTH AND SAFETY OF THE EMPLOYEE.

Whereas, throughout American history, characteristics such as skin color and hair texture have served as a proxy for race, color, and national origin and as a basis of enslavement, segregation, exclusion, and discrimination; and

Whereas, the history of our nation is riddled with laws and societal norms that equate “blackness” and associated characteristics like skin color, hair texture, and hairstyles, as a badge of inferiority and conversely, characteristics associated with whiteness as a marker of superiority; and

Whereas, these stereotypes and biases continue to permeate societal understandings, resulting in characteristics, like hair texture and hair styles associated with blackness being classified as “unprofessional,” “unkempt,” “distracting,” and “unacceptable”; and

Whereas, Eurocentric appearance norms are privileged in American society and thus, in order to access employment, education, housing, and public accommodations individuals are required to conform to these norms, which sometimes demands drastic and permanent alterations to one’s physical appearance; and

Whereas, despite the great strides in American society and civil rights law, African Americans and other individuals continue to experience systematic racial, color, and national origin discrimination on the basis of characteristics like hair texture and hair styles that do not fit within Eurocentric appearance norms; and

Whereas, dress codes and grooming policies that prohibit natural or protective hairstyles like afros, braids, twists, and locs, which African descendants commonly adorn and often reflect their racial and cultural identity, result in their denial of opportunities and full inclusion in education, housing, employment, and public accommodations; and

Whereas, a key enforcement agency in the State of South Carolina recognizes that racial discrimination consists of not only differential treatment but also policies that disproportionately burden individuals on the basis of “characteristics associated with race such as hair texture, skin color, or certain facial characteristics”; and

Whereas, grooming policies and dress codes that prohibit natural and protective hairstyles disproportionately impact and burden African descendants and constitute a rampant form of race, color, and national origin discrimination which also is the source of serious economic and health consequences; and

Whereas, acting in accordance with the express laws and public policy of our State which affords equal and full access to housing, education, employment, and public accommodations to all individuals regardless of race, color, and national origin. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 21, Title 31 of the 1976 Code is amended by adding:

“Section 31‑21‑65. (A) For purposes of this section, ‘race, color, or national origin’ include characteristics associated with race, color, and national origin, including, but not limited to, skin color, facial features, hair texture, and natural hairstyles.

(B) For purposes of applying the provisions of this chapter, it is unlawful and against public policy of this State to discriminate in matters involving housing on the basis of race, color, or national origin as defined in subsection (A).”

SECTION 2. Article 1, Chapter 63, Title 59 of the 1976 Code is amended by adding:

“Section 59‑63‑41. (A) For purposes this section, ‘race, color, or national origin’ includes characteristics associated with race, color, and national origin, including, but not limited to, skin color, facial features, hair texture, and natural hairstyles.

(B) In school or school administrative matters, based on a provision of law, policy, rule, or guideline applicable to the institution, it is unlawful and against the public policy of this State to discriminate on the basis of race, color, or national origin as defined in subsection (A) when applying a provision, policy, rule, or guideline.

(C) An educational organization may not be held liable for unlawful race, color, or national origin discrimination where the organization demonstrates that the reasonable regulation of an impermissible characteristic is necessary to the health and safety of students and that the organization engages in good faith efforts to accommodate the student.”

SECTION 3. Article 1, Chapter 9, Title 45 of the 1976 is amended by adding:

“Section 45‑9‑11. (A) For purposes of this section, ‘race, color, or national origin’ includes characteristics associated with race, color and national origin including, but not limited to, skin color, facial features, hair texture, and natural hairstyles.

(B) For purposes of applying the provisions of this chapter, it is unlawful and against public policy of this State to discriminate in matters involving public accommodations on the basis of race, color, or national origin as defined in subsection (A).”

SECTION 4. Section 1‑13‑30 of the 1976 Code, as last amended by Act 244 of 2018, is further amended by adding an appropriately lettered subsection to read:

“( ) ‘Race, color, or national origin’ includes characteristics associated with race, color and national origin, including, but not limited to, skin color, facial features, hair texture, and natural hairstyles.”

SECTION 5. Section 1‑13‑80(I) of the 1976 Code is amended by adding an appropriately numbered item to read:

“( ) A covered employer may not be held liable for unlawful race, color, or national origin discrimination where the employer demonstrates that the reasonable regulation of an impermissible characteristic is necessary to the health and safety of the employee and that the employer engages in good faith efforts to accommodate the applicant or employee.”

SECTION 6. This act takes effect upon approval by the Governor.

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