

By: Representative Scott

To: Judiciary A; Business
and Commerce

HOUSE BILL NO. 381

1 AN ACT TO CREATE THE "CREATE A RESPECTFUL AND OPEN WORKPLACE
2 FOR NATURAL (CROWN) HAIR ACT"; TO PROHIBIT CREATION OF WORKPLACE
3 AND SCHOOL POLICIES THAT DISCRIMINATE ON THE BASIS OF NATURAL
4 HAIRSTYLES; TO PROHIBIT DISCRIMINATION BY AN EMPLOYER, SCHOOL,
5 SCHOOL DISTRICT OR ADMINISTRATOR ENGAGED IN COMMERCE ON THE BASIS
6 OF HAIR TEXTURE; TO PROHIBIT TERMINATION, REDUCTION OF WORK HOURS,
7 OR PAYING A REDUCED SALARY OR WAGE OR EXPULSION OR DISMISSAL BASED
8 ON HAIR TEXTURE; TO PROVIDE THE REMEDIES FOR ANY PERSON WHO IS
9 AGGRIEVED BY VIOLATION OF THIS ACT; TO AMEND SECTION 25-9-149,
10 MISSISSIPPI CODE OF 1972, TO CONFORM THE STATE DISCRIMINATION
11 POLICY TO THE PROVISIONS OF THIS ACT; TO AMEND SECTION 89-9-19,
12 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CONDOMINIUM RESTRICTIONS
13 SHALL NOT INCLUDE DISCRIMINATORY PROVISIONS IN CONFORMITY WITH
14 THIS ACT; TO AMEND SECTION 73-35-21, MISSISSIPPI CODE OF 1972, TO
15 CLARIFY THAT DISCRIMINATORY PRACTICES ARE GROUNDS FOR REVOCATION
16 OF REAL ESTATE SALES AND BROKER LICENSES; TO AUTHORIZE COUNTIES
17 AND MUNICIPALITIES TO CREATE POLICIES THAT PROHIBIT DISCRIMINATORY
18 PRACTICES IN CONFORMITY WITH THIS ACT; AND FOR RELATED PURPOSES.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

20 **SECTION 1.** This act shall be known and may be cited as the
21 "Create A Respectful And Open Workplace For Natural (CROWN) Hair
22 Act."

23 **SECTION 2.** The Mississippi Legislature finds:

24 (a) That discrimination based on "natural hairstyles"
25 exists in industries engaged in commerce or in the production of



goods for commerce, schools throughout the United States and society as a whole;

(b) Such differentials depress the wages, living standards, quality of education and quality of life for employees and students of color, and such depression has a negative impact on their health and efficiency and drop-out rate, thereby increasing the poverty rate in Mississippi;

(c) That workplace, school and any policies and dress codes that restrict natural hairstyles, including, but not limited to, afros, braids, twists and locs have a disparate impact on African Americans, Latinas and other ethnic groups;

(d) That hair texture has historically been one of the many determining factors of race; and

(e) That acting in accordance with the constitutional values of fairness, equity and opportunity for all requires the Legislature to ban any policies that discriminate or treat any person unfairly in any manner.

SECTION 3. (1) No employer, school, school district or administrator may create a dress code or policy that prohibits natural hair from being worn in the workplace during workplace hours, school hours or during workplace or school events. For purposes of this act, the term "natural hair" means afros, braids, twists, locs and any similar hairstyle.

(2) No employer, school, school district or administrator shall discriminate in any manner against any person by paying a



51 salary or wage, refusing to provide a salary or wage increase,
52 deny a promotion or other employment opportunity, or expel or in
53 any manner discipline a student or employee on the basis of any
54 natural hairstyle worn by the person. For employers, when
55 comparing an employee who does not wear natural hair if such
56 employees are performing equal work on jobs that require equal
57 skill, effort and responsibility to perform, and which are
58 performed under similar working conditions, except where such
59 decision is made pursuant to:

60 (a) A seniority system; however, time spent on leave
61 due to a pregnancy-related condition and parental, family and
62 medical leave, shall not reduce the seniority-level of an
63 employee;

64 (b) A merit system;

65 (c) A system which measures earnings by quantity or
66 quality of production; or

67 (d) A differential based on any bona fide factor other
68 than hairstyles, if the factor:

69 (i) Is job-related with respect to the position
70 and necessary for the business; and

71 (ii) Accounts for the entire differential.

72 An employer who is paying a wage rate differential in
73 violation of this subsection shall not, in order to comply with
74 the provisions of this subsection, reduce the wage rate of any
75 other employee.



76 (3) For purposes of administration and enforcement of this
77 act, any amounts owed to an employee that have been withheld in
78 violation of this act shall be deemed to be unpaid minimum wages
79 or unpaid compensation.

80 (4) It shall be an unlawful practice for an employer,
81 school, school district or administrator to retaliate or in any
82 other manner discriminate against any person because that person
83 has opposed a practice made unlawful by this act or because that
84 person has made a charge, filed a complaint, or instituted or
85 caused to be instituted any investigation, proceeding, hearing, or
86 action under or related to this act, including an investigation
87 conducted by the employer, or has testified or is planning to
88 testify, or has assisted, or participated in any manner in any
89 such investigation, proceeding, or hearing under this act.

90 (5) (a) A civil action asserting a violation of this act
91 may be maintained against any employer, school, school district or
92 administrator in any court of competent jurisdiction by any one
93 (1) or more employees for or on behalf of the employee, a group of
94 employees, and other employees similarly situated. Any such
95 action shall commence no later than two (2) years after the
96 discriminatory practice declared unlawful by this act has
97 occurred. A discriminatory practice occurs when a discriminatory
98 compensation decision or other practice is adopted, when an
99 employee is subjected to a discriminatory compensation decision or
100 other practice, or when an employee is affected by the application



of a discriminatory compensation decision or other practice,
including each time wages, benefits, or other compensation is paid
based on the discriminatory compensation decision or other
practice.

(b) If an employer, school, school district or
administrator is found in violation of this act, the aggrieved
person may recover in a civil action the amount of their unpaid
wages; liquidated damages; compensatory damages; punitive damages
as may be appropriate, where such person demonstrates that the
employer, school, school district or administrator acted with
malice or reckless indifference; other equitable relief as may be
appropriate; and the costs of the action and reasonable attorney's
fees.

SECTION 4. Section 25-9-149, Mississippi Code of 1972, is
amended as follows:

25-9-149. It is the intent of the Legislature that no person
seeking employment in state service, as defined in Section
25-9-107, Mississippi Code of 1972, or employed in state service,
as defined in Section 25-9-107, Mississippi Code of 1972, shall be
discriminated against on the basis of race, color, religion, sex,
national origin, age * * *, handicap or natural hairstyle.

SECTION 5. Section 89-9-19, Mississippi Code of 1972, is
amended as follows:

89-9-19. The restrictions and covenants authorized by
Section 89-9-17 may prescribe regulations concerning sales or



leases of units, and any such restrictions and covenants shall be valid, except discriminatory restrictions based on race, color, religion, sex, national origin, age, handicap or natural hairstyle, but it shall not be mandatory that the management body be given the first right or refusal to purchase or lease any such unit which the owner thereof intends to sell or lease.

SECTION 6. Section 73-35-21, Mississippi Code of 1972, is amended as follows:

73-35-21. (1) Except as otherwise provided in this section, the commission may, upon its own motion and shall upon the verified complaint in writing of any person, hold a hearing pursuant to Section 73-35-23 for the refusal of license or for the suspension or revocation of a license previously issued, or for such other action as the commission deems appropriate. The commission shall have full power to refuse a license for cause or to revoke or suspend a license where it has been obtained by false or fraudulent representation, or where the licensee in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

(a) Making any substantial misrepresentation in connection with a real estate transaction;

(b) Making any false promises of a character likely to influence, persuade or induce;



149 (c) Pursuing a continued and flagrant course of
150 misrepresentation or making false promises through agents or
151 salespersons or any medium of advertising or otherwise;

152 (d) Any misleading or untruthful advertising;

153 (e) Acting for more than one (1) party in a transaction
154 or receiving compensation from more than one (1) party in a
155 transaction, or both, without the knowledge of all parties for
156 whom he or she acts;

157 (f) Failing, within a reasonable time, to account for
158 or to remit any monies coming into his or her possession which
159 belong to others, or commingling of monies belonging to others
160 with his own funds. Every responsible broker procuring the
161 execution of an earnest money contract or option or other contract
162 who shall take or receive any cash or checks shall deposit, within
163 a reasonable period of time, the sum or sums so received in a
164 trust or escrow account in a bank or trust company pending the
165 consummation or termination of the transaction. "Reasonable time"
166 in this context means by the close of business of the next banking
167 day;

168 (g) Entering a guilty plea or conviction in a court of
169 competent jurisdiction of this state, or any other state or the
170 United States of any felony;

171 (h) Displaying a "for sale" or "for rent" sign on any
172 property without the owner's consent;



(i) Failing to furnish voluntarily, at the time of signing, copies of all listings, contracts and agreements to all parties executing the same;

(j) Paying any rebate, profit or commission to any person other than a real estate broker or salesperson licensed under the provisions of this chapter;

(k) Inducing any party to a contract, sale or lease to break such contract for the purpose of substituting in lieu thereof a new contract, where such substitution is motivated by the personal gain of the licensee;

(l) Accepting a commission or valuable consideration as a real estate salesperson for the performance of any of the acts specified in this chapter from any person, except his or her employer who must be a licensed real estate broker;

(m) Failing to successfully pass the commission's background investigation for licensure or renewal as provided in Section 73-35-10; or

(n) Any act or conduct, whether of the same or a different character than hereinabove specified, which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealing, including any discriminatory act or conduct based on race, color, religion, sex, national origin, age, handicap or natura hairstyle. However, simple contact and/or communication with any mortgage broker or lender by a real estate licensee about any professional,



198 including, but not limited to, an appraiser, home inspector,
199 contractor, and/or attorney regarding a listing and/or a
200 prospective or pending contract for the lease, sale and/or
201 purchase of real estate shall not constitute conduct in violation
202 of this section.

203 (2) No real estate broker shall practice law or give legal
204 advice directly or indirectly unless said broker be a duly
205 licensed attorney under the laws of this state. He or she shall
206 not act as a public conveyancer nor give advice or opinions as to
207 the legal effect of instruments nor give opinions concerning the
208 validity of title to real estate; nor shall he or she prevent or
209 discourage any party to a real estate transaction from employing
210 the services of an attorney; nor shall a broker undertake to
211 prepare documents fixing and defining the legal rights of parties
212 to a transaction. However, when acting as a broker, he or she may
213 use an earnest money contract form. A real estate broker shall
214 not participate in attorney's fees, unless the broker is a duly
215 licensed attorney under the laws of this state and performs legal
216 services in addition to brokerage services.

217 (3) It is expressly provided that it is not the intent and
218 purpose of the Mississippi Legislature to prevent a license from
219 being issued to any person who is found to be of good reputation,
220 is able to give bond, and who has lived in the State of
221 Mississippi for the required period or is otherwise qualified
222 under this chapter.



223 (4) In addition to the reasons specified in subsection (1)
224 of this section, the commission shall be authorized to suspend the
225 license of any licensee for being out of compliance with an order
226 for support, as defined in Section 93-11-153. The procedure for
227 suspension of a license for being out of compliance with an order
228 for support, and the procedure for the reissuance or reinstatement
229 of a license suspended for that purpose, and the payment of any
230 fees for the reissuance or reinstatement of a license suspended
231 for that purpose, shall be governed by Section 93-11-157 or
232 93-11-163, as the case may be. If there is any conflict between
233 any provision of Section 93-11-157 or 93-11-163 and any provision
234 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
235 as the case may be, shall control.

236 (5) Nothing in this chapter shall prevent an associate
237 broker or salesperson from owning any lawfully constituted
238 business organization, including, but not limited to, a
239 corporation, limited liability company or limited liability
240 partnership, for the purpose of receiving payments contemplated in
241 this chapter. The business organization shall not be required to
242 be licensed under this chapter and shall not engage in any other
243 activity requiring a real estate license.

244 (6) The Mississippi Real Estate Commission shall not
245 promulgate any rule or regulation, nor make any administrative or
246 other interpretation, whereby any real estate licensee may be held
247 responsible or subject to discipline or other actions by the



commission relating to the information required to be disclosed by Sections 89-1-501 through 89-1-523 or delivery of information required to be disclosed by Sections 89-1-501 through 89-1-523.

(7) The Mississippi Real Estate Commission shall not promulgate nor enforce any rule or regulation, nor make any administrative or other interpretation, whereby any real estate licensee may be required to include in any agreement or otherwise be required to agree to any requirement regarding unilateral termination by a buyer-agency agreement.

SECTION 7. Counties and municipalities may adopt and enforce ordinances, orders and resolutions prohibiting all forms of discrimination, including discrimination on the basis of race, creed, color, religion, national origin, sex, disability, or age, or natural, protective, or cultural hairstyle, and to prescribe penalties for violations thereof, such penalties being in addition to the remedial orders and enforcement herein authorized.

SECTION 8. This act shall take effect and be in force from and after its passage.

