UNFINISHED BUSINESS

Bill No: SB 403
Author: Wahab (D), et al.
Amended: 8/24/23
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 4/25/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Min, Niello, Stern, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 34-1, 5/11/23
NOES: Jones
NO VOTE RECORDED: Becker, Dahle, Grove, Nguyen, Seyarto

ASSEMBLY FLOOR: 55-3, 8/28/23 - See last page for vote

SUBJECT: Discrimination on the basis of ancestry

SOURCE: Alphabet Workers Union – Communication Workers of America
Ambedkar Association of North America
Asian Pacific American Labor Alliance
Equality Labs
Hindus for Caste Equity
Jakarta Movement
Sikh American Legal Defense and Education Fund
Sikh Coalition
South Asian Network
Tech Equity Collaborative
DIGEST: This bill clarifies that discrimination on the basis of caste, as defined, is prohibited as a form of discrimination on the basis of ancestry under existing anti-discrimination statutes; and adds a prohibition on the basis of ancestry to existing anti-discrimination provisions under the Education Code.

Assembly Amendments remove most of the bill’s findings and declarations; move the prohibition on discrimination on the basis of caste into the existing prohibition on the basis of ancestry, which is defined to include, among other things, lineal descent, heritage, parentage, caste, or any other inherited social status; and add chaptering-out amendments to avoid a conflict with AB 524 (Wicks, 2023).

ANALYSIS:

Existing law:

1) Establishes the Unruh Civil Rights Act, which provides that all persons in California are free and equal, and regardless of a person’s actual or perceived sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status, everyone is entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments. (Civ. Code, § 51.)

2) Provides that it is the policy of this State to afford all persons in public schools equal rights and opportunities in the educational institutions of this state, regardless of their actual or perceived disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, immigration status, or association with a person or group with one or more of these actual or perceived characteristics. (Ed. Code, §§ 200, 210.2.)

3) Provides that no person in the State shall, on the basis of their actual or perceived sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state, including at the California State University. (Gov. Code, § 11135.)

4) Establishes the Fair Employment and Housing Act (FEHA), which prohibits discrimination in housing and employment on the basis of a person’s actual or
perceived race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, subject to specified exceptions. (Gov. Code, §§ 12920 et seq.)

5) Establishes the Civil Rights Department (CRD) (formerly DFEH), which is tasked with enforcing California’s civil rights laws, issuing publications that will tend to minimize or eliminate prohibited discrimination, providing assistance to communities and persons in resolving disputes relating to discriminatory practices based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, veteran or military status, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, familial status, age, reproductive health decisionmaking, or sexual orientation that impair the rights of persons in those communities under the Constitution or laws of the United States or of this state. (Gov. Code, §§ 12930, 12931.)

This bill:

1) Adds, to 2), a prohibition on discrimination on the basis of ancestry.

2) Defines “ancestry,” for purposes of 1)-5), above, as including, but not limited to, lineal descent, heritage, parentage, caste, or any inherited social status; and states that nothing precludes a person from alleging discrimination on the basis of ancestry in combination with discrimination based upon other protected characteristics.

3) Defines “caste,” for purposes of 1)-5), above, as an individual’s perceived position in a system of social stratification on the basis of inherited status; a system of social stratification on the basis of inherited status may be characterized by factors that may include, but are not limited to: inability or restricted ability to alter inherited status; socially enforced restrictions on marriage, private and public segregation, and discrimination; and social exclusion on the basis of perceived status.

4) Includes chaptering-out amendments to prevent a conflict with AB 524 (Wicks, 2023).
Comments

This bill clarifies that discrimination on the basis of caste is prohibited under the Unruh Civil Rights Act, state laws prohibiting discrimination in publicly funded programs and public education, and FEHA. Specifically, as amended in the Assembly, this bill defines “ancestry,” which is already a protected category, to include lineal descent, heritage, parentage, caste, or any inherited social status. This bill further defines “caste” as a person’s perceived position in a system of social stratification on the basis of inherited status; a caste system may be characterized by factors that may include, but are not limited to: inability or restricted ability to alter inherited status; socially enforced restrictions on marriage, private and public segregation, and discrimination; and social exclusion on the basis of perceived status. Because caste can intersect with, and incorporate, existing concepts of race and color, ethnicity, and national origin,1 this bill also clarifies that a person may allege discrimination on the basis of ancestry in combination with discrimination on other bases. This bill also adds “ancestry,” along with the definitions of “ancestry” and “caste,” to the existing anti-discrimination laws covering the provision of rights and opportunities in public schools.

These changes are intended to provide additional clarity to businesses, employers, and schools about what forms of discrimination are prohibited. While it may seem clear to some that caste is already protected, the reports of caste-based discrimination in the state suggest that employers and other entities are not adequately protecting against this form of discrimination in the absence of a specific statutory reference to caste.

Although caste systems are hierarchical, this bill’s definition of “caste” establishes a neutral approach to the nature of caste-based discrimination: “caste” includes anyone’s perceived position in a caste system, thereby prohibiting discrimination regardless of whether the position is considered a “high” position or a “low” position in the hierarchy. Accordingly, a person who experienced discrimination because someone believed they were in a dominant caste would have just as much of a claim as a person who experienced discrimination because it was believed they were a member of a historically disfavored caste. Similarly, this bill does not require either the discriminator or the victim of discrimination to identify as being a member of a caste system; a person who believed they were not part of a caste

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1 For example, some legal scholars argue that caste can be considered a form of race for purposes of the federal Title VII and Section 1981 anti-discrimination laws. (Brown et al., Does U.S. Federal Employment Law Now Cover Caste Discrimination Based on Untouchability? If All Else Fails There Is The Possible Application of Bostock v. Clayton County, 46 N.Y.U. Rev. of Law & Social Change 117, 125.)
system could still violate the laws if they discriminated against a person based on their understanding of the person’s caste, and the person who experienced discrimination need not identify as a member of a caste system as long as they can prove that they were discriminated against as a result of their perceived membership. The bill is also neutral in that it applies to all caste systems, regardless of the origin of the system.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee, this bill will incur minor state costs, if any, because discrimination on the basis of caste is already prohibited under California law.

**SUPPORT:** (Verified 8/31/23)

Alphabet Workers Union – Communication Workers of America (co-source)
Ambedkar Association of North America (co-source)
Asian Pacific American Labor Alliance (co-source)
Equality Labs (co-source)
Hindus for Caste Equity (co-source)
Jakarta Movement (co-source)
Sikh American Legal Defense and Education Fund (co-source)
Sikh Coalition (co-source)
South Asian Network (co-source)
Tech Equity Collaborative (co-source)
5B Corp.
99 Plus Mart
A1 Food Store
AAPI Equity Alliance
ACLU California Action
AK Market
AK Trucking
Alameda County Democratic Party, Central Committee
Ambedkar International Center
Ambedkar International Co-Ordination Society
Ambedkar International Mission Center Houston, USA
Ambedkar International Mission Society, Calgary
Ambedkar International Social Reform Organization
Ambedkar International Social Reform Organization, Canada
Ambedkar King Study Circle
Ambedkar Times
Ambedkarite Buddhist Association of Texas
Ambedkarites International Mission Society – Canada
America Golden Property LLC
American Ethnic Ministries
American Gundwara Parbandhak Committee
Americans Against Caste Discrimination
Amrik Chand CPA
Ana Truck Line
Angelo’s Pizza & Wings
Arco Broadway
Asian American Disinformation Table
Asian Americans Advancing Justice – Asian Law Caucus
Asian Pacific Environmental Network
Banger Trucking
Begumpura Cultural Society of New York
Bend the Arc: Jewish Action California
Bhim International Foundation USA/Shri Guru Ravidass Sabha
Boston South Asian Coalition
Boston Study Group
Bottles Up
CA Plaza
California Asian Pacific American Bar Association
California Association of Human Relations Commissions
California Coalition for Community Investment
California Democratic Party
California Employment Lawyers Association
California Environmental Voters
California Faculty Association
California Immigrant Policy Center
California Labor Federation
California Mini Mart
Californians for Caste Equity
Carson Inn
Caste Equity Legal Task Force
Center for Empowering Refugees and Immigrants
Chanan G Corporation
Cheaper Cigarette Store
Chetna Association of Canada
Circle A. Auto Service Center
Circle Food Store Inc.
City of Alameda
Coalition of Americans for Pluralism in India
Coalition of Seattle Indian Americans
Coalition of Sikh Communities Across California
Consumer Attorneys of California
Contra Costa Asian American Pacific Islander Coalition
Council on American-Islamic Relations, California
Culver City Democratic Club
Curry Land
Dalit Solidarity Forum
Days Inn Lost Hills
Democratic Party of Contra Costa County
Desh Doaba
DFW Shri Guru Ravidass Organization, Mesquite, TX
Dhamma Waves
Diamond Services CA LLC
Discount Plus Mart
Dr. Ambedkar International Mission, Toronto
Dr. B.R. Ambedkar Educational Aid Society, Fremont, CA
Dr. Cornel West
East Bay for Everyone
East Bay YIMBY
East Bay Young Democrats
Economy Inn Suites, Bakersfield, CA
Ek Panth Ek Soch
Federation of Indian American Ambedkarities of Bay Area
Feminist Critical Hindu Studies Collective
FGS Trucking Inc.
First United Methodist Church of Redding, Anti-racism Task Force
Friends for Education International
Global Bahujan Group
Global NRI Forum
Golden Eagle Property LLC
Grandhaven Laundromat
Great Truth
Gudwara Guru Angad Darbar, Inc.
Gurdwara Gur Nanak Parkash
Gurdwara Gurmat Parkash (Manteca)
Gurdwara Matsuana Sahib, Yuba City
Gurdwara Sacramento Sikh Society
Gurdwara Sahib Fremont
Gurdwara Sahib Hayward
Gurdwara Sri Sachkand Sahib
Gurdwara Sukh Sagar Sahib
Hanford Gas
Har Trans LLC
Harbans Singh Plaza
Health & Life Insurance
Hidden Leaf Foundation
Hindus for Human Rights
HK Parnership
HMH Property LLC
Holiday Inn Express Delano
Hot Box Smok [sic] Shop
HR Plaza
I. Korotania Inc.
India Civil Watch International
Indian American Muslim Council
International Bahuji Organization
International Bahuhan Organization CA
International Bodhisattva Guru Ravidass Organization Inc.
Jassal Trans Inc.
JK Liquor Mart
JK Smoke Shop
JS Construction B Development
K & K Laundromat
K & K Quick Stop
K & K Valero
Kaur Ryan Trucking Inc.
KB Used Auto Sales
King’s Market
King’s Smoke Shop
Korean Community Center of the East Bay
Kumar Investments
Land Park Chevron
Latine Young Democrats of the East Bay
Lawyers’ Committee for Civil Rights of the San Francisco Bay Area
Legal Aid at Work
Love Never Fails
M & J’s Smoke Shop
Majestic Homes
Majitpal Singh Inc.
Mario’s Auto Repair
Mazik Smoke Shop
me too. International
Mental Health Professionals for Caste Equity and Healing
MGM Tobacco and Mini Mart
MHC Trans Inc.
NAACP Hayward South Alameda County
Nanaksar Darbar Langar Mata Sahib Kaur Ji, Inc.
National Academic Coalition for Caste Equity
National Asian Pacific American Bar Association
National Association of Social Workers – California Chapter
New Gen Corp.
New Look Threading Salon
Nibbana Healthcare Inc.
Organizing for Action Contra Costa
Pacific Coast Khalsa Diwan Society
Pacific State Hospitality LLC
Paragon Medical Management Group
Paul’s Food Fair Inc.
Peace and Freedom Party of California
Periyar Ambedkar Study Circle
Periyar International USA
Port of Subs
Power in Education
Proud Ravidassia Global Organization
Punjabi American Heritage Society – Roseville
R & M Brothers Transport LLC
R&R Management Services Inc.
Radha Swami Rasila Satsang Center, Fresno, CA
Road King Express
RZ Smoke Shop
Sahayaatra International Alliance for Social Justice
Saman Sangh – Om Prakash
San Francisco Bay Area Tamil Mandram
Sanford Heisler Sharp, LLP
Santa Clara County Democratic Party
Santa Monica Democratic Club
SBN Trucking
Seattle Councilmember Ksharma Sawant
Shaheed Baba Deep Singh Khalsa Darbar
Shasta County Citizens Advocating Respect
Sheru Transport Inc.
Shri Guru Ravidass Sabha, Fresno, CA
Shri Guru Ravidass Sabha, New York
Shri Guru Ravidass Temple, Pittsburgh, CA
Shri Guru Ravidass Temple, Rio Linda, CA
Shri Guru Ravidass Temple, Selma, CA
Shri Guru Ravidass Temple, Union City, CA
Sikh Center of Pacific Coast
Sikh Community Center
Sikh Gurdwara – San Jose
Sikh Gurdwara Sahib SF
Sikh Society of Central Contra Costa, Sarab Sanjah Gurdwara
Sikh Temple of Bakersfield
Sikh Temple Turlock
Silicon Valley Gurdwara
Sobha Road Service
Socialist Alternative – Bay Area
Sohi Momi Partnership
Sood Trucking Inc.
South Asia Scholar Activist Collective
South Asian Bar Association of North America
South Asian Coalition to Renew Democracy
South Asian Dalit Adivasi Network, Canada
South Asian Left Activist Movement
South Asian SOAR
Southern Asian Bar Association of North America
SP Baler Trans Inc.
Sri Guru Nanak Sikh Temple
Sri Guru Ravidass Sabha Ontario
Sri Guru Ravidass Society, Calgary
Stop AAPI Hate
Subway # 24692
Subway # 30212
Tech Workers for Caste Equity
Tek-Tax Services
THAKAR Inc.
The Cardiovascular Center
TJ Trucking
TransOne Logistics
United Nations Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance
United Way of Northern California
UTC Inc.
V-Day
Voices for Progress
Wasco Dining
Wasco Inn
Wasco Plaza
Workers Strike Back
Over 700 individuals

**OPPOSITION:** (Verified 8/31/23)

AIM for Seva
Akshaya Patra
Alum Rock Hikers Group
Ambedkar-Phule Network of American Dalits and Bahujans
American Atheists
American Hindu Federation
American Hindus Against Defamation
American Muslim and Multifaith Women’s Empowerment Coalition
Americans for Equality
Americans4Hindus
Annapoorna USA Foundation
Arsha Vidya Pitham
Art of Living in Colorado
Arya Samaj Long Island
Asian American Shop Owners Association
Autumnoaks Sai Devotees Association
Balagokulam LoneHill Chapter
Bangladeshi Minorities in USA
Bay Area Bearcats
Bay Area Bengalis
Bay Area Hindus
Bay Area Vaishnav Parivar
Bay Area Youth Vaishnav Parivar
Bharati Tamil Sangam
Bihar UP Jharkhand United of North America
Chinmaya Mission Los Angeles
Chinmaya Mission West
Chinmaya Mission, San Jose
Coalition of Hindus of North America
Concord Housewives Group
Cornerstone Synergy
Cupertino Action & Advocacy
Dalit Samaj of North America
Dalit-Bahujan Solidarity Network
DalitBahujan.org
Dharma Civilization Foundation Inc.
Drishtikone
Durga Temple of VA
Evergreen Desi Group
Evergreen Spiritual Singing Group
Federation of Hindu Associations
Federation of Hindu Mandirs
Federation of Indo-Americans of Northern California
Folsom Bhajan Group
Folsom Desi Ambedkar Civil Rights Group
Folsom Hindu Temple and Cultural Center
Foothills Desi Sports Association
Foundation for India and Indian Diaspora Studies
Fremont Hindu Temple
Fremont Parents Against Discrimination
Global Kashmiri Pandit Diaspora
GoodKarma CLAT
Gujaratis of North America, Inc.
Gurdwara Guru Kalgidhar Sahib
Gurdwara Sant Sagar
HCS Springfield, Ohio
Hero Life Sciences Inc.
Hindu Advocacy Constituent Committee of San Mateo County
Hindu American Foundation
Hindu American Political Action Committee
Hindu Americans of San Diego
Hindu Business Network
Hindu Community Center
Hindu Community Institute
Hindu Cultural Center
Hindu Mandir Executives’ Conference
Hindu Society of Inland Empire Inc.
Hindu Speakers Bureau
Hindu Teens Association of Roseville
Hindu Temple Dayton
Hindu Temple of Greater Chicago
Hindu Temple of New Hampshire
HinduACTion
HinduPact
Hindus 4 Dignity
Hindus FOR California
Hindus for Equal Rights
Hindus for Harmony
Hindus in North America
Hindus Not Caste-Opressors
HSS-USA
HumanSense AI Inc.
India Association of Los Angeles
India Awareness Foundation
India Heritage Foundation
IndiaFacts
Indian Americans California
Indian Americans of Irvine and Orange County
Indic Press
Indo American Social Association LLC
Indo-American Community Federation
Interfaith Dialogue Association
InterfaithShaadi
Iron Horse Health and Wellness Group
ISSO LA
Jain Foundation/India Community Center/Simi Valley Mandir
Jain Society of Greater Cleveland
Jaya Hanuman Temple an Cultural Center
Jewish Institute for Liberal Values
Joy and Assoc. DBA Home America
Kailasa San Diego
Kailasa San Diego Hindu University
Kerala Hindus of Northern California
Khalsa Care Foundation
KnowYourRoots Foundation
Let’s Play Badminton Group
Maharishi Valmik Sabha (USA)
Mandir
McAnally Desi Youth Sports Community
Metropolitan Asian Family Services, Inc.
Minimalist Moms
Minority Parents Association, Livermore
Mothers Against BULLYING
Motwani Jadeja Family Foundation
My Temple
National Alliance of Indo-Canadians
Natomas Friends Cultural Group
Natomas Group of Sacramento
Nithyananda Dhynaapeetam Temple and Cultural Center
Nris4Bengal
Organization of Hindu Malayalees
Palo Alto for Religious Freedom
Pleasanton Kannada Balaga
Pragnya Cultural Society
RangAmerica
Reiki Group
Rutgers Hindu Yuva
Samskrita Bharati, Fremont CA Chapter
Samskrita Bharati, San Ramon Chapter
San Ramon Health for Humanity Group
Sanatan Mandir San Bruno
Sankara Eye Foundation USA
Satsang Group
Sewa International, Inc.
Shanti Mandir
Shanti om
Shiva Murgan Temple
Shiva Vishnu Temple
Showing Up for Racial Justice
Shree Swaminarayan Satsang Mandal
Shri Guru Ravidass Temple, Yuba City, CA
Shri Yoga Vedanta Ashram
Sikh Temple Gridley – Live Oak
Sikh Temple Gurdwara Yuba City
Silicon Valley Chinese Association
Silicon Valley Interreligious Council
SMAP Foundation
Social Justice Coalition, Livermore
South Asians for Inclusive Progress
Sri Ashtalakshmi Temple
Sri Saibaba Mandir
Sri Satya Narayana Swamy Devasthanam
StandWithUs
Step2StepUp Inc.
The Hindu Bhajan Samiti
The Khalsa Today
TriDevi Sanatan Mandir Inc.
United Indians Association
United States-India Relationship Council
University of Toronto – Hindu Student’s Council
Vaishnav Samaj of Southern California
Vasavi Seva Foundation
Vedic Cultural & Spiritual Center
Vedic Cultural and Spiritual Center of San Diego
Vedic Dharma Samaj/Fremont Hindu Temple
Vedic Education and Devotional Academy
Vedic Sampradaya
Vietnamese American Conservative Association
Vinay Kruttiventi Foundation
Vishwa Hindu Parishad of America – Los Angeles
Washington State and India Trade Relations Action Committee
World Hindu Council of America
Yoga Ascent North America
Yoga Bharati
Over 2,000 individuals

**ARGUMENTS IN SUPPORT:** According to the co-sponsors of this bill:

California is home to many South Asians who contribute immensely to local education, corporate, and community organizations. Our California members affirm that caste-oppressed families in the state not only experience significant discrimination based on race but caste as well. Caste may not be as visible as race to the California legislature, but it is a longstanding system of exclusion both in our homelands and within intergovernmental bodies like the UN, the EU, and many others…
We ask[] that you stand with and create safe harbors for our caste-oppressed neighbors, friends, co-workers, faith leaders, and family members so that they can safely come out and exercise their rights. Without institutional support and protection, caste-oppressed Californians will endure continued discrimination.

ARGUMENTS IN OPPOSITION: According to the Hindu American Foundation:

Absent a historical or current legal basis to regulate caste in the United States and the lack of an agreed-upon legal, academic or sociological definition, will administrators and the state be asked to rely on India’s laws related to caste and impose foreign laws on those working or residing in California? Or will administrators simply treat people of South Asian origin as presumptively guilty because SB-403 states as much? Will only South Asians be forced to answer intrusive questions about or be judged for who they are married to because the state has defined caste as limited to [marriage]? Or perhaps, will South Asians, unlike members of every other racial or ethnic group, be required by the state or policy administrators to identify as “oppressed” or “oppressor”? 

ASSEMBLY FLOOR: 55-3, 8/28/23
NOES: Megan Dahle, Vince Fong, Hoover
NO VOTE RECORDED: Alanis, Berman, Boerner, Cervantes, Chen, Davies, Dixon, Essayli, Flora, Gallagher, Garcia, Lackey, Low, Mathis, McCarty, Jim Patterson, Joe Patterson, Quirk-Silva, Rendon, Rodriguez, Ta, Wallis

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
8/31/23 16:18:07

**** END ****