



## 5 Employer Takeaways as Nevada Law Expanded to Include Protection for Natural Hairstyles

Insights

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Nevada has just joined the ranks of several other states that have recently enacted laws prohibiting discrimination in workplace and educational settings based on traits frequently associated with race such as hair texture and ethnic hairstyles. [Senate Bill 327](#), Nevada's version of a CROWN Act – "Creating a Respectful and Open World for Natural Hair" – also clarifies the definition of race and includes a definition of protective hairstyles. Many employers and schools have policies relating to appearance and/or grooming that will need to be reviewed to ensure compliance. Other than a few provisions relating to employee testing, the new law went into effect on June 2 – and there are several changes to workplace policies that you should consider to ensure compliance with the law.

### CROWN Act Ties Up Legislatures Nationwide

Although Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, courts often interpreted that protection to only apply to afros when it comes to hairstyles. Until recently, locks, knots, braids, twists, and other natural hairstyles commonly worn by African Americans were not considered protected racial characteristics under state or federal laws. The tension in the law created issues for people of color who experienced discipline or adverse actions in the workplace or school, including being sent home due to their hairstyle or feeling compelled to change their natural hair to meet societal expectations. For instance, the [11th Circuit Court of Appeals recently upheld a lower court's decision](#) to dismiss a case involving a woman who lost a job offer after she refused to alter her dreadlocked hairstyle, finding that Title VII does not protect against "cultural practices" such as dreadlocks.

In June 2019, California became the first state to enact a CROWN Act law prohibiting discrimination on the basis of hairstyles by passing [Senate Bill 188](#). The law states, among other things, that "despite the great strides American society and laws have made to reverse the racist ideology that Black traits are inferior, hair remains a rampant source of racial discrimination with serious economic and health consequences, especially for Black individuals." Other states quickly adopted their own versions of the California bill prohibiting discrimination based upon hairstyles: New York, New Jersey, Virginia, Colorado, Washington, Maryland, Connecticut, New Mexico, Delaware, and Nebraska. The federal government has also introduced a [CROWN Act](#) in 2020 that died on the vines, but a similar [CROWN Act of 2021](#) was recently introduced for the current legislative session. Cities throughout the nation, including [Pittsburgh](#), have also enacted their own CROWN Act legislation.

## What Employers Need to Know About SB 327: Nevada's CROWN Act

Nevada adopted its own version of the CROWN Act in SB 327, which was signed into law by the governor on June 2. The new law clarifies the definition of "race" stating it includes "traits associated with race, including without limitation, hair texture and protective hairstyles." "Protective hairstyle" is also defined to include without limitation, "natural hairstyles, afros, bantu knots, curls, braids, locks, and twists." By adding these definitions to Nevada's employment laws, employees can now pursue claims of discrimination on the basis of protective hairstyles. Employers may still enforce health and safety requirements set forth in federal or state law.

Additionally, the new law provides that the expansion to the definition of race and protective hairstyles is not subject to negotiations with an employee organization, and any provision of a Collective Bargaining Agreement (CBA) that "differs from or conflicts in any way" with the new law is void and unenforceable. Although there may be arguments made that this provision is preempted under federal law, employers with CBA provisions prohibiting certain protective hairstyles should identify those provisions now to ensure compliance with the new law.

### Takeaways for Employers

The Nevada legislature has expressed a desire to promote and maintain racial equality within the state. You should act quickly to ensure your policies and procedures do not contravene the new law by considering the following five areas:

1. **Policies and Procedures.** You should immediately review your employee policies, paying close attention to any appearance or grooming policies. Any references to specifically prohibited hairstyles should be immediately removed, and the policies should be revised to ensure that grooming standards are neutral, nondiscriminatory, applied in a uniform manner, and do not result in a disparate impact. If your policies will need substantial revisions, it may be worthwhile to prepare a new policy that is acknowledged by employees.
2. **Training.** You should consider conducting training of employees with respect to changes in any policies or procedures, and consider instituting unconscious bias training. Supervisors, managers, and human resource personnel should also be trained on how to handle complaints with sensitivity, when to escalate particular complaints, and how to avoid potential racially charged questions about an applicant's appearance during an interview.
3. **CBA Requirements.** The new law makes substantive changes to an employee's rights under a CBA, and you should immediately review any CBA provisions that may implicate an employee's protective hairstyle. Consult with labor counsel regarding how to properly implement any necessary changes.
4. **Remove Certain CBA Language.** Any language prohibiting particular hairstyles should be removed, and the CBA's language should be revised – either through a Memorandum of

Understanding or Amendment – to ensure the language is neutral, nondiscriminatory, and will not result in a disparate impact.

5. **Health and Safety.** Notwithstanding the protections for hair texture and protective hairstyles, you may enforce health and safety requirements set forth in federal or state law.

Fisher Phillips will continue to monitor employment developments in Nevada and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [Las Vegas office](#).

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