

[Second Reprint]

ASSEMBLY, No. 3451

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED OCTOBER 19, 2006

Sponsored by:

Assemblyman GARY S. SCHAER

District 36 (Bergen, Essex and Passaic)

Assemblyman NEIL M. COHEN

District 20 (Union)

Co-Sponsored by:

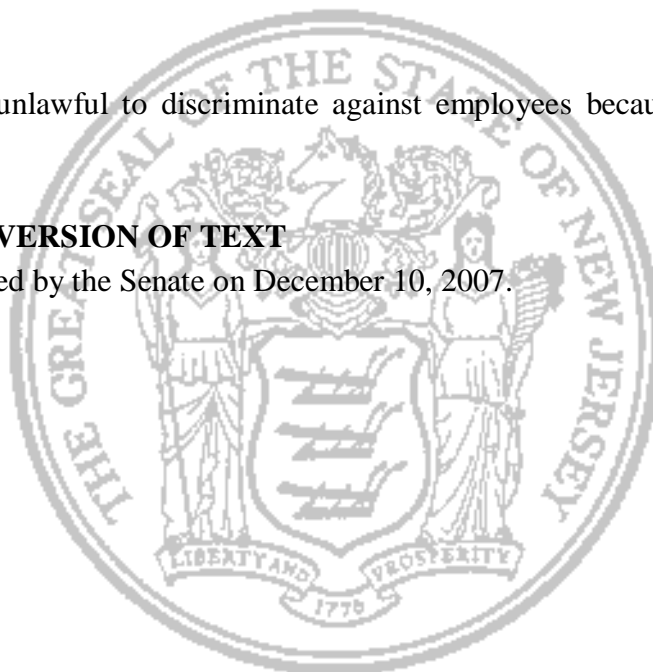
Assemblymen Steele, Johnson, Assemblywoman Voss, Assemblyman Chivukula, Assemblywomen Oliver, Beck, Assemblymen Scalera, Payne, Gordon, Vas, Conners, Stack, Assemblywoman Greenstein, Assemblyman Burzichelli, Assemblywoman Lampitt, Senators Weinberg, Sarlo, Coniglio, Karcher and Lance

SYNOPSIS

Makes it unlawful to discriminate against employees because of religious practices.

CURRENT VERSION OF TEXT

As amended by the Senate on December 10, 2007.



(Sponsorship Updated As Of: 12/18/2007)

1 AN ACT concerning discrimination of religious practices in the
2 workplace and amending P.L.1945, c.169.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read
8 as follows:

9 5. As used in this act, unless a different meaning clearly
10 appears from the context:

11 a. "Person" includes one or more individuals, partnerships,
12 associations, organizations, labor organizations, corporations, legal
13 representatives, trustees, trustees in bankruptcy, receivers, and
14 fiduciaries.

15 b. "Employment agency" includes any person undertaking to
16 procure employees or opportunities for others to work.

17 c. "Labor organization" includes any organization which exists
18 and is constituted for the purpose, in whole or in part, of collective
19 bargaining, or of dealing with employers concerning grievances,
20 terms or conditions of employment, or of other mutual aid or
21 protection in connection with employment.

22 d. "Unlawful employment practice" and "unlawful
23 discrimination" include only those unlawful practices and acts
24 specified in section 11 of this act.

25 e. "Employer" includes all persons as defined in subsection a.
26 of this section unless otherwise specifically exempt under another
27 section of this act, and includes the State, any political or civil
28 subdivision thereof, and all public officers, agencies, boards or
29 bodies.

30 f. "Employee" does not include any individual employed in the
31 domestic service of any person.

32 g. "Liability for service in the Armed Forces of the United
33 States" means subject to being ordered as an individual or member
34 of an organized unit into active service in the Armed Forces of the
35 United States by reason of membership in the National Guard, naval
36 militia or a reserve component of the Armed Forces of the United
37 States, or subject to being inducted into such armed forces through
38 a system of national selective service.

39 h. "Division" means the "Division on Civil Rights" created by
40 this act.

41 i. "Attorney General" means the Attorney General of the State
42 of New Jersey or his representative or designee.

43 j. "Commission" means the Commission on Civil Rights
44 created by this act.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ALA committee amendments adopted February 26, 2007.

²Senate floor amendments adopted December 10, 2007.

- 1 k. "Director" means the Director of the Division on Civil
2 Rights.
- 3 l. "A place of public accommodation" shall include, but not be
4 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
5 summer camp, day camp, or resort camp, whether for entertainment
6 of transient guests or accommodation of those seeking health,
7 recreation or rest; any producer, manufacturer, wholesaler,
8 distributor, retail shop, store, establishment, or concession dealing
9 with goods or services of any kind; any restaurant, eating house, or
10 place where food is sold for consumption on the premises; any
11 place maintained for the sale of ice cream, ice and fruit preparations
12 or their derivatives, soda water or confections, or where any
13 beverages of any kind are retailed for consumption on the premises;
14 any garage, any public conveyance operated on land or water, or in
15 the air, any stations and terminals thereof; any bathhouse,
16 boardwalk, or seashore accommodation; any auditorium, meeting
17 place, or hall; any theatre, motion-picture house, music hall, roof
18 garden, skating rink, swimming pool, amusement and recreation
19 park, fair, bowling alley, gymnasium, shooting gallery, billiard and
20 pool parlor, or other place of amusement; any comfort station; any
21 dispensary, clinic or hospital; any public library; any kindergarten,
22 primary and secondary school, trade or business school, high
23 school, academy, college and university, or any educational
24 institution under the supervision of the State Board of Education, or
25 the Commissioner of Education of the State of New Jersey.
26 Nothing herein contained shall be construed to include or to apply
27 to any institution, bona fide club, or place of accommodation, which
28 is in its nature distinctly private; nor shall anything herein contained
29 apply to any educational facility operated or maintained by a bona
30 fide religious or sectarian institution, and the right of a natural
31 parent or one in loco parentis to direct the education and upbringing
32 of a child under his control is hereby affirmed; nor shall anything
33 herein contained be construed to bar any private secondary or post
34 secondary school from using in good faith criteria other than race,
35 creed, color, national origin, ancestry¹, gender identity or
36 expression¹ or affectional or sexual orientation in the admission of
37 students.
- 38 m. "A publicly assisted housing accommodation" shall include
39 all housing built with public funds or public assistance pursuant to
40 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
41 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,
42 c.184, and all housing financed in whole or in part by a loan,
43 whether or not secured by a mortgage, the repayment of which is
44 guaranteed or insured by the federal government or any agency
45 thereof.
- 46 n. The term "real property" includes real estate, lands,
47 tenements and hereditaments, corporeal and incorporeal, and
48 leaseholds, provided, however, that, except as to publicly assisted

1 housing accommodations, the provisions of this act shall not apply
2 to the rental: (1) of a single apartment or flat in a two-family
3 dwelling, the other occupancy unit of which is occupied by the
4 owner as a residence; or (2) of a room or rooms to another person or
5 persons by the owner or occupant of a one-family dwelling
6 occupied by the owner or occupant as a residence at the time of
7 such rental. Nothing herein contained shall be construed to bar any
8 religious or denominational institution or organization, or any
9 organization operated for charitable or educational purposes, which
10 is operated, supervised or controlled by or in connection with a
11 religious organization, in the sale, lease or rental of real property,
12 from limiting admission to or giving preference to persons of the
13 same religion or denomination or from making such selection as is
14 calculated by such organization to promote the religious principles
15 for which it is established or maintained. Nor does any provision
16 under this act regarding discrimination on the basis of familial
17 status apply with respect to housing for older persons.

18 o. "Real estate broker" includes a person, firm or corporation
19 who, for a fee, commission or other valuable consideration, or by
20 reason of promise or reasonable expectation thereof, lists for sale,
21 sells, exchanges, buys or rents, or offers or attempts to negotiate a
22 sale, exchange, purchase, or rental of real estate or an interest
23 therein, or collects or offers or attempts to collect rent for the use of
24 real estate, or solicits for prospective purchasers or assists or directs
25 in the procuring of prospects or the negotiation or closing of any
26 transaction which does or is contemplated to result in the sale,
27 exchange, leasing, renting or auctioning of any real estate, or
28 negotiates, or offers or attempts or agrees to negotiate a loan
29 secured or to be secured by mortgage or other encumbrance upon or
30 transfer of any real estate for others; or any person who, for
31 pecuniary gain or expectation of pecuniary gain conducts a public
32 or private competitive sale of lands or any interest in lands. In the
33 sale of lots, the term "real estate broker" shall also include any
34 person, partnership, association or corporation employed by or on
35 behalf of the owner or owners of lots or other parcels of real estate,
36 at a stated salary, or upon a commission, or upon a salary and
37 commission or otherwise, to sell such real estate, or any parts
38 thereof, in lots or other parcels, and who shall sell or exchange, or
39 offer or attempt or agree to negotiate the sale or exchange, of any
40 such lot or parcel of real estate.

41 p. "Real estate salesperson" includes any person who, for
42 compensation, valuable consideration or commission, or other thing
43 of value, or by reason of a promise or reasonable expectation
44 thereof, is employed by and operates under the supervision of a
45 licensed real estate broker to sell or offer to sell, buy or offer to buy
46 or negotiate the purchase, sale or exchange of real estate, or offers
47 or attempts to negotiate a loan secured or to be secured by a
48 mortgage or other encumbrance upon or transfer of real estate, or to

1 lease or rent, or offer to lease or rent any real estate for others, or to
2 collect rents for the use of real estate, or to solicit for prospective
3 purchasers or lessees of real estate, or who is employed by a
4 licensed real estate broker to sell or offer to sell lots or other parcels
5 of real estate, at a stated salary, or upon a commission, or upon a
6 salary and commission, or otherwise to sell real estate, or any parts
7 thereof, in lots or other parcels.

8 q. "Disability" means physical disability, infirmity,
9 malformation or disfigurement which is caused by bodily injury,
10 birth defect or illness including epilepsy and other seizure
11 disorders, and which shall include, but not be limited to, any degree
12 of paralysis, amputation, lack of physical coordination, blindness or
13 visual impediment, deafness or hearing impediment, muteness or
14 speech impediment or physical reliance on a service or guide dog,
15 wheelchair, or other remedial appliance or device, or any mental,
16 psychological or developmental disability resulting from
17 anatomical, psychological, physiological or neurological conditions
18 which prevents the normal exercise of any bodily or mental
19 functions or is demonstrable, medically or psychologically, by
20 accepted clinical or laboratory diagnostic techniques. Disability
21 shall also mean AIDS or HIV infection.

22 r. "Blind person" means any individual whose central visual
23 acuity does not exceed 20/200 in the better eye with correcting lens
24 or whose visual acuity is better than 20/200 if accompanied by a
25 limit to the field of vision in the better eye to such a degree that its
26 widest diameter subtends an angle of no greater than 20 degrees.

27 s. "Guide dog" means a dog used to assist deaf persons or
28 which is fitted with a special harness so as to be suitable as an aid to
29 the mobility of a blind person, and is used by a blind person who
30 has satisfactorily completed a specific course of training in the use
31 of such a dog, and has been trained by an organization generally
32 recognized by agencies involved in the rehabilitation of the blind or
33 deaf as reputable and competent to provide dogs with training of
34 this type.

35 t. "Guide or service dog trainer" means any person who is
36 employed by an organization generally recognized by agencies
37 involved in the rehabilitation of persons with disabilities as
38 reputable and competent to provide dogs with training, and who is
39 actually involved in the training process.

40 u. "Housing accommodation" means any publicly assisted
41 housing accommodation or any real property, or portion thereof,
42 which is used or occupied, or is intended, arranged, or designed to
43 be used or occupied, as the home, residence or sleeping place of one
44 or more persons, but shall not include any single family residence
45 the occupants of which rent, lease, or furnish for compensation not
46 more than one room therein.

47 v. "Public facility" means any place of public accommodation
48 and any street, highway, sidewalk, walkway, public building, and

- 1 any other place or structure to which the general public is regularly,
2 normally or customarily permitted or invited.
- 3 w. "Deaf person" means any person whose hearing is so
4 severely impaired that the person is unable to hear and understand
5 normal conversational speech through the unaided ear alone, and
6 who must depend primarily on a supportive device or visual
7 communication such as writing, lip reading, sign language, and
8 gestures.
- 9 x. "Atypical hereditary cellular or blood trait" means sickle cell
10 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
11 fibrosis trait.
- 12 y. "Sickle cell trait" means the condition wherein the major
13 natural hemoglobin components present in the blood of the
14 individual are hemoglobin A (normal) and hemoglobin S (sickle
15 hemoglobin) as defined by standard chemical and physical analytic
16 techniques, including electrophoresis; and the proportion of
17 hemoglobin A is greater than the proportion of hemoglobin S or one
18 natural parent of the individual is shown to have only normal
19 hemoglobin components (hemoglobin A, hemoglobin A2,
20 hemoglobin F) in the normal proportions by standard chemical and
21 physical analytic tests.
- 22 z. "Hemoglobin C trait" means the condition wherein the major
23 natural hemoglobin components present in the blood of the
24 individual are hemoglobin A (normal) and hemoglobin C as defined
25 by standard chemical and physical analytic techniques, including
26 electrophoresis; and the proportion of hemoglobin A is greater than
27 the proportion of hemoglobin C or one natural parent of the
28 individual is shown to have only normal hemoglobin components
29 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal
30 proportions by standard chemical and physical analytic tests.
- 31 aa. "Thalassemia trait" means the presence of the thalassemia
32 gene which in combination with another similar gene results in the
33 chronic hereditary disease Cooley's anemia.
- 34 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
35 which in combination with another similar gene results in the
36 chronic hereditary disease Tay-Sachs.
- 37 cc. "Cystic fibrosis trait" means the presence of the cystic
38 fibrosis gene which in combination with another similar gene
39 results in the chronic hereditary disease cystic fibrosis.
- 40 dd. "Service dog" means any dog individually trained to the
41 requirements of a person with a disability including, but not limited
42 to minimal protection work, rescue work, pulling a wheelchair or
43 retrieving dropped items. This term shall include a "seizure dog"
44 trained to alert or otherwise assist persons subject to epilepsy or
45 other seizure disorders.
- 46 ee. "Qualified Medicaid applicant" means an individual who is a
47 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

- 1 ff. "AIDS" means acquired immune deficiency syndrome as
2 defined by the Centers for Disease Control and Prevention of the
3 United States Public Health Service.
- 4 gg. "HIV infection" means infection with the human
5 immunodeficiency virus or any other related virus identified as a
6 probable causative agent of AIDS.
- 7 hh. "Affectional or sexual orientation" means male or female
8 heterosexuality, homosexuality or bisexuality by inclination,
9 practice, identity or expression, having a history thereof or being
10 perceived, presumed or identified by others as having such an
11 orientation.
- 12 ii. "Heterosexuality" means affectional, emotional or physical
13 attraction or behavior which is primarily directed towards persons
14 of the other gender.
- 15 jj. "Homosexuality" means affectional, emotional or physical
16 attraction or behavior which is primarily directed towards persons
17 of the same gender.
- 18 kk. "Bisexuality" means affectional, emotional or physical
19 attraction or behavior which is directed towards persons of either
20 gender.
- 21 ll. "Familial status" means being the natural parent of a child,
22 the adoptive parent of a child, the resource family parent of a child,
23 having a "parent and child relationship" with a child as defined by
24 State law, or having sole or joint legal or physical custody, care,
25 guardianship, or visitation with a child, or any person who is
26 pregnant or is in the process of securing legal custody of any
27 individual who has not attained the age of 18 years.
- 28 mm. "Housing for older persons" means housing:
- 29 (1) provided under any State program that the Attorney General
30 determines is specifically designed and operated to assist elderly
31 persons (as defined in the State program); or provided under any
32 federal program that the United States Department of Housing and
33 Urban Development determines is specifically designed and
34 operated to assist elderly persons (as defined in the federal
35 program); or
- 36 (2) intended for, and solely occupied by persons 62 years of age
37 or older; or
- 38 (3) intended and operated for occupancy by at least one person
39 55 years of age or older per unit. In determining whether housing
40 qualifies as housing for older persons under this subsection, the
41 Attorney General shall adopt regulations which require at least the
42 following factors:
- 43 (a) the existence of significant facilities and services
44 specifically designed to meet the physical or social needs of older
45 persons, or if the provision of such facilities and services is not
46 practicable, that such housing is necessary to provide important
47 housing opportunities for older persons; and

1 (b) that at least 80 percent of the units are occupied by at least
2 one person 55 years of age or older per unit; and

3 (c) the publication of, and adherence to, policies and procedures
4 which demonstrate an intent by the owner or manager to provide
5 housing for persons 55 years of age or older.

6 Housing shall not fail to meet the requirements for housing for
7 older persons by reason of: persons residing in such housing as of
8 September 13, 1988 not meeting the age requirements of this
9 subsection, provided that new occupants of such housing meet the
10 age requirements of this subsection; or unoccupied units, provided
11 that such units are reserved for occupancy by persons who meet the
12 age requirements of this subsection.

13 nn. "Genetic characteristic" means any inherited gene or
14 chromosome, or alteration thereof, that is scientifically or medically
15 believed to predispose an individual to a disease, disorder or
16 syndrome, or to be associated with a statistically significant
17 increased risk of development of a disease, disorder or syndrome.

18 oo. "Genetic information" means the information about genes,
19 gene products or inherited characteristics that may derive from an
20 individual or family member.

21 pp. "Genetic test" means a test for determining the presence or
22 absence of an inherited genetic characteristic in an individual,
23 including tests of nucleic acids such as DNA, RNA and
24 mitochondrial DNA, chromosomes or proteins in order to identify a
25 predisposing genetic characteristic.

26 qq. "Domestic partnership" means a domestic partnership
27 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

28 rr. "Gender identity or expression" means having or being
29 perceived as having a gender related identity or expression whether
30 or not stereotypically associated with a person's assigned sex at
31 birth.

32 ss. "Civil Union" means a legally recognized union of two
33 eligible individuals established pursuant to R.S.37:1-1 et seq. and
34 P.L.2006, c.103 (C.37:1-28 et al.).

35 tt.¹ "Premium wages" means ²[overtime pay, compensatory time
36 off,]² additional remuneration for night, weekend or holiday work,
37 or for standby or irregular duty.

38 ¹[ss.] uu.¹ "Premium benefit" means an employment benefit,
39 such as seniority, group life insurance, health insurance, disability
40 insurance, sick leave, annual leave, or an educational or pension
41 benefit that is greater than the employment benefit due the
42 employee for an equivalent period of work performed during the
43 regular work schedule of the employee.

44 (cf: P.L.2006, c.103, s.87)

45

46 2. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to
47 read as follows:

1 11. It shall be an unlawful employment practice, or, as the case
2 may be, an unlawful discrimination:
3 a. For an employer, because of the race, creed, color, national
4 origin, ancestry, age, marital status, 'civil union status,' domestic
5 partnership status, affectional or sexual orientation, genetic
6 information, sex, 'gender identity or expression,' disability or
7 atypical hereditary cellular or blood trait of any individual, or
8 because of the liability for service in the Armed Forces of the
9 United States or the nationality of any individual, or because of the
10 refusal to submit to a genetic test or make available the results of a
11 genetic test to an employer, to refuse to hire or employ or to bar or
12 to discharge or require to retire, unless justified by lawful
13 considerations other than age, from employment such individual or
14 to discriminate against such individual in compensation or in terms,
15 conditions or privileges of employment; provided, however, it shall
16 not be an unlawful employment practice to refuse to accept for
17 employment an applicant who has received a notice of induction or
18 orders to report for active duty in the armed forces; provided further
19 that nothing herein contained shall be construed to bar an employer
20 from refusing to accept for employment any person on the basis of
21 sex in those certain circumstances where sex is a bona fide
22 occupational qualification, reasonably necessary to the normal
23 operation of the particular business or enterprise; provided further
24 that nothing herein contained shall be construed to bar an employer
25 from refusing to accept for employment or to promote any person
26 over 70 years of age; provided further that it shall not be an
27 unlawful employment practice for a club exclusively social or
28 fraternal to use club membership as a uniform qualification for
29 employment, or for a religious association or organization to utilize
30 religious affiliation as a uniform qualification in the employment of
31 clergy, religious teachers or other employees engaged in the
32 religious activities of the association or organization, or in
33 following the tenets of its religion in establishing and utilizing
34 criteria for employment of an employee; provided further, that it
35 shall not be an unlawful employment practice to require the
36 retirement of any employee who, for the two-year period
37 immediately before retirement, is employed in a bona fide executive
38 or a high policy-making position, if that employee is entitled to an
39 immediate non-forfeitable annual retirement benefit from a pension,
40 profit sharing, savings or deferred retirement plan, or any
41 combination of those plans, of the employer of that employee which
42 equals in the aggregate at least \$27,000.00; and provided further
43 that an employer may restrict employment to citizens of the United
44 States where such restriction is required by federal law or is
45 otherwise necessary to protect the national interest.
46 The provisions of subsections a. and b. of section 57 of
47 P.L.2003, c.246 (C.34:11A-20), and the provisions of section 58 of

1 P.L.2003, c.246 (C.26:8A-11), shall not be deemed to be an
2 unlawful discrimination under P.L.1945, c.169 (C.10:5-1 et seq.).

3 For the purposes of this subsection, a "bona fide executive" is a
4 top level employee who exercises substantial executive authority
5 over a significant number of employees and a large volume of
6 business. A "high policy-making position" is a position in which a
7 person plays a significant role in developing policy and in
8 recommending the implementation thereof.

9 b. For a labor organization, because of the race, creed, color,
10 national origin, ancestry, age, marital status, 'civil union status,'
11 domestic partnership status, affectional or sexual orientation,
12 'gender identity or expression,' disability or sex of any individual,
13 or because of the liability for service in the Armed Forces of the
14 United States or nationality of any individual, to exclude or to expel
15 from its membership such individual or to discriminate in any way
16 against any of its members, against any applicant for, or individual
17 included in, any apprentice or other training program or against any
18 employer or any individual employed by an employer; provided,
19 however, that nothing herein contained shall be construed to bar a
20 labor organization from excluding from its apprentice or other
21 training programs any person on the basis of sex in those certain
22 circumstances where sex is a bona fide occupational qualification
23 reasonably necessary to the normal operation of the particular
24 apprentice or other training program.

25 c. For any employer or employment agency to print or circulate
26 or cause to be printed or circulated any statement, advertisement or
27 publication, or to use any form of application for employment, or to
28 make an inquiry in connection with prospective employment, which
29 expresses, directly or indirectly, any limitation, specification or
30 discrimination as to race, creed, color, national origin, ancestry,
31 age, marital status, 'civil union status,' domestic partnership status,
32 affectional or sexual orientation, 'gender identity or expression,'
33 disability, nationality or sex or liability of any applicant for
34 employment for service in the Armed Forces of the United States,
35 or any intent to make any such limitation, specification or
36 discrimination, unless based upon a bona fide occupational
37 qualification.

38 d. For any person to take reprisals against any person because
39 that person has opposed any practices or acts forbidden under this
40 act or because that person has filed a complaint, testified or assisted
41 in any proceeding under this act or to coerce, intimidate, threaten or
42 interfere with any person in the exercise or enjoyment of, or on
43 account of that person having aided or encouraged any other person
44 in the exercise or enjoyment of, any right granted or protected by
45 this act.

46 e. For any person, whether an employer or an employee or not,
47 to aid, abet, incite, compel or coerce the doing of any of the acts
48 forbidden under this act, or to attempt to do so.

1 f. (1) For any owner, lessee, proprietor, manager,
2 superintendent, agent, or employee of any place of public
3 accommodation directly or indirectly to refuse, withhold from or
4 deny to any person any of the accommodations, advantages,
5 facilities or privileges thereof, or to discriminate against any person
6 in the furnishing thereof, or directly or indirectly to publish,
7 circulate, issue, display, post or mail any written or printed
8 communication, notice, or advertisement to the effect that any of
9 the accommodations, advantages, facilities, or privileges of any
10 such place will be refused, withheld from, or denied to any person
11 on account of the race, creed, color, national origin, ancestry,
12 marital status, ¹civil union status, ¹domestic partnership status, sex,
13 ¹gender identity or expression, ¹affectional or sexual orientation,
14 disability or nationality of such person, or that the patronage or
15 custom thereat of any person of any particular race, creed, color,
16 national origin, ancestry, marital status, ¹civil union status, ¹
17 domestic partnership status, sex, ¹gender identity or expression, ¹
18 affectional or sexual orientation, disability or nationality is
19 unwelcome, objectionable or not acceptable, desired or solicited,
20 and the production of any such written or printed communication,
21 notice or advertisement, purporting to relate to any such place and
22 to be made by any owner, lessee, proprietor, superintendent or
23 manager thereof, shall be presumptive evidence in any action that
24 the same was authorized by such person; provided, however, that
25 nothing contained herein shall be construed to bar any place of
26 public accommodation which is in its nature reasonably restricted
27 exclusively to individuals of one sex, and which shall include but
28 not be limited to any summer camp, day camp, or resort camp,
29 bathhouse, dressing room, swimming pool, gymnasium, comfort
30 station, dispensary, clinic or hospital, or school or educational
31 institution which is restricted exclusively to individuals of one sex,
32 ²provided individuals shall be admitted based on their gender
33 identity or expression, ² from refusing, withholding from or denying
34 to any individual of the opposite sex any of the accommodations,
35 advantages, facilities or privileges thereof on the basis of sex;
36 provided further, that the foregoing limitation shall not apply to any
37 restaurant as defined in R.S.33:1-1 or place where alcoholic
38 beverages are served.

39 (2) Notwithstanding the definition of "a place of public
40 accommodation" as set forth in subsection l. of section 5 of
41 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,
42 manager, superintendent, agent, or employee of any private club or
43 association to directly or indirectly refuse, withhold from or deny to
44 any individual who has been accepted as a club member and has
45 contracted for or is otherwise entitled to full club membership any
46 of the accommodations, advantages, facilities or privileges thereof,
47 or to discriminate against any member in the furnishing thereof on

1 account of the race, creed, color, national origin, ancestry, marital
2 status, 'civil union status,' 'domestic partnership status, sex, 'gender
3 identity, or expression,' 'affectional or sexual orientation, disability
4 or nationality of such person.

5 In addition to the penalties otherwise provided for a violation of
6 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2)
7 of subsection f. of this section is the holder of an alcoholic beverage
8 license issued under the provisions of R.S.33:1-12 for that private
9 club or association, the matter shall be referred to the Director of
10 the Division of Alcoholic Beverage Control who shall impose an
11 appropriate penalty in accordance with the procedures set forth in
12 R.S.33:1-31.

13 g. For any person, including but not limited to, any owner,
14 lessee, sublessee, assignee or managing agent of, or other person
15 having the right of ownership or possession of or the right to sell,
16 rent, lease, assign, or sublease any real property or part or portion
17 thereof, or any agent or employee of any of these:

18 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
19 to deny to or withhold from any person or group of persons any real
20 property or part or portion thereof because of race, creed, color,
21 national origin, ancestry, marital status, 'civil union status,'
22 domestic partnership status, sex, 'gender identity or expression,'
23 affectional or sexual orientation, familial status, disability,
24 nationality, or source of lawful income used for rental or mortgage
25 payments;

26 (2) To discriminate against any person or group of persons
27 because of race, creed, color, national origin, ancestry, marital
28 status, 'civil union status,' domestic partnership status, sex, 'gender
29 identity or expression,' affectional or sexual orientation, familial
30 status, disability, nationality or source of lawful income used for
31 rental or mortgage payments in the terms, conditions or privileges
32 of the sale, rental or lease of any real property or part or portion
33 thereof or in the furnishing of facilities or services in connection
34 therewith;

35 (3) To print, publish, circulate, issue, display, post or mail, or
36 cause to be printed, published, circulated, issued, displayed, posted
37 or mailed any statement, advertisement, publication or sign, or to
38 use any form of application for the purchase, rental, lease,
39 assignment or sublease of any real property or part or portion
40 thereof, or to make any record or inquiry in connection with the
41 prospective purchase, rental, lease, assignment, or sublease of any
42 real property, or part or portion thereof which expresses, directly or
43 indirectly, any limitation, specification or discrimination as to race,
44 creed, color, national origin, ancestry, marital status, 'civil union
45 status,' domestic partnership status, sex, 'gender identity, or
46 expression,' affectional or sexual orientation, familial status,
47 disability, nationality, or source of lawful income used for rental or

1 mortgage payments, or any intent to make any such limitation,
2 specification or discrimination, and the production of any such
3 statement, advertisement, publicity, sign, form of application,
4 record, or inquiry purporting to be made by any such person shall
5 be presumptive evidence in any action that the same was authorized
6 by such person; provided, however, that nothing contained in this
7 subsection shall be construed to bar any person from refusing to
8 sell, rent, lease, assign or sublease or from advertising or recording
9 a qualification as to sex for any room, apartment, flat in a dwelling
10 or residential facility which is planned exclusively for and occupied
11 by individuals of one sex to any individual of the exclusively
12 opposite sex on the basis of sex 'provided individuals shall be
13 qualified based on their gender identity or expression';

14 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
15 to deny to or withhold from any person or group of persons any real
16 property or part or portion thereof because of the source of any
17 lawful income received by the person or the source of any lawful
18 rent payment to be paid for the real property; or

19 (5) To refuse to rent or lease any real property to another person
20 because that person's family includes children under 18 years of
21 age, or to make an agreement, rental or lease of any real property
22 which provides that the agreement, rental or lease shall be rendered
23 null and void upon the birth of a child. This paragraph shall not
24 apply to housing for older persons as defined in subsection mm. of
25 section 5 of P.L.1945, c.169 (C.10:5-5).

26 h. For any person, including but not limited to, any real estate
27 broker, real estate salesperson, or employee or agent thereof:

28 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
29 sale, rental, lease, assignment, or sublease any real property or part
30 or portion thereof to any person or group of persons or to refuse to
31 negotiate for the sale, rental, lease, assignment, or sublease of any
32 real property or part or portion thereof to any person or group of
33 persons because of race, creed, color, national origin, ancestry,
34 marital status, 'civil union status,' domestic partnership status,
35 familial status, sex, 'gender identity or expression,' affectional or
36 sexual orientation, disability, nationality, or source of lawful
37 income used for rental or mortgage payments, or to represent that
38 any real property or portion thereof is not available for inspection,
39 sale, rental, lease, assignment, or sublease when in fact it is so
40 available, or otherwise to deny or withhold any real property or any
41 part or portion of facilities thereof to or from any person or group of
42 persons because of race, creed, color, national origin, ancestry,
43 marital status, 'civil union status,' domestic partnership status,
44 familial status, sex, 'gender identity or expression,' affectional or
45 sexual orientation, disability or nationality;

46 (2) To discriminate against any person because of race, creed,
47 color, national origin, ancestry, marital status, 'civil union status,'

1 domestic partnership status, familial status, sex, ¹gender identity or
2 expression,¹ affectional or sexual orientation, disability, nationality,
3 or source of lawful income used for rental or mortgage payments in
4 the terms, conditions or privileges of the sale, rental, lease,
5 assignment or sublease of any real property or part or portion
6 thereof or in the furnishing of facilities or services in connection
7 therewith;

8 (3) To print, publish, circulate, issue, display, post, or mail, or
9 cause to be printed, published, circulated, issued, displayed, posted
10 or mailed any statement, advertisement, publication or sign, or to
11 use any form of application for the purchase, rental, lease,
12 assignment, or sublease of any real property or part or portion
13 thereof or to make any record or inquiry in connection with the
14 prospective purchase, rental, lease, assignment, or sublease of any
15 real property or part or portion thereof which expresses, directly or
16 indirectly, any limitation, specification or discrimination as to race,
17 creed, color, national origin, ancestry, marital status, ¹civil union
18 status,¹ domestic partnership status, familial status, sex, ¹gender
19 identity or expression,¹ affectional or sexual orientation, disability,
20 nationality, or source of lawful income used for rental or mortgage
21 payments or any intent to make any such limitation, specification or
22 discrimination, and the production of any such statement,
23 advertisement, publicity, sign, form of application, record, or
24 inquiry purporting to be made by any such person shall be
25 presumptive evidence in any action that the same was authorized by
26 such person; provided, however, that nothing contained in this
27 subsection h., shall be construed to bar any person from refusing to
28 sell, rent, lease, assign or sublease or from advertising or recording
29 a qualification as to sex for any room, apartment, flat in a dwelling
30 or residential facility which is planned exclusively for and occupied
31 exclusively by individuals of one sex to any individual of the
32 opposite sex on the basis of sex ¹, provided individuals shall be
33 qualified based on their gender identity or expression¹;

34 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
35 to deny to or withhold from any person or group of persons any real
36 property or part or portion thereof because of the source of any
37 lawful income received by the person or the source of any lawful
38 rent payment to be paid for the real property; or

39 (5) To refuse to rent or lease any real property to another person
40 because that person's family includes children under 18 years of
41 age, or to make an agreement, rental or lease of any real property
42 which provides that the agreement, rental or lease shall be rendered
43 null and void upon the birth of a child. This paragraph shall not
44 apply to housing for older persons as defined in subsection mm. of
45 section 5 of P.L.1945, c.169 (C.10:5-5).

46 i. For any person, bank, banking organization, mortgage
47 company, insurance company or other financial institution, lender

1 or credit institution involved in the making or purchasing of any
2 loan or extension of credit, for whatever purpose, whether secured
3 by residential real estate or not, including but not limited to
4 financial assistance for the purchase, acquisition, construction,
5 rehabilitation, repair or maintenance of any real property or part or
6 portion thereof or any agent or employee thereof:

7 (1) To discriminate against any person or group of persons
8 because of race, creed, color, national origin, ancestry, marital
9 status, 'civil union status,' domestic partnership status, sex, 'gender
10 identity or expression,' affectional or sexual orientation, disability,
11 familial status or nationality, in the granting, withholding,
12 extending, modifying, renewing, or purchasing, or in the fixing of
13 the rates, terms, conditions or provisions of any such loan,
14 extension of credit or financial assistance or purchase thereof or in
15 the extension of services in connection therewith;

16 (2) To use any form of application for such loan, extension of
17 credit or financial assistance or to make record or inquiry in
18 connection with applications for any such loan, extension of credit
19 or financial assistance which expresses, directly or indirectly, any
20 limitation, specification or discrimination as to race, creed, color,
21 national origin, ancestry, marital status, 'civil union status,'
22 domestic partnership status, sex, 'gender identity or expression,'
23 affectional or sexual orientation, disability, familial status or
24 nationality or any intent to make any such limitation, specification
25 or discrimination; unless otherwise required by law or regulation to
26 retain or use such information;

27 (3) (Deleted by amendment, P.L.2003, c.180).

28 (4) To discriminate against any person or group of persons
29 because of the source of any lawful income received by the person
30 or the source of any lawful rent payment to be paid for the real
31 property; or

32 (5) To discriminate against any person or group of persons
33 because that person's family includes children under 18 years of
34 age, or to make an agreement or mortgage which provides that the
35 agreement or mortgage shall be rendered null and void upon the
36 birth of a child. This paragraph shall not apply to housing for older
37 persons as defined in subsection mm. of section 5 of P.L.1945,
38 c.169 (C.10:5-5).

39 j. For any person whose activities are included within the
40 scope of this act to refuse to post or display such notices concerning
41 the rights or responsibilities of persons affected by this act as the
42 Attorney General may by regulation require.

43 k. For any real estate broker, real estate salesperson or
44 employee or agent thereof or any other individual, corporation,
45 partnership, or organization, for the purpose of inducing a
46 transaction for the sale or rental of real property from which
47 transaction such person or any of its members may benefit
48 financially, to represent that a change has occurred or will or may

1 occur in the composition with respect to race, creed, color, national
2 origin, ancestry, marital status, 'civil union status.' domestic
3 partnership status, familial status, sex, 'gender identity or
4 expression.' affectional or sexual orientation, disability, nationality,
5 or source of lawful income used for rental or mortgage payments of
6 the owners or occupants in the block, neighborhood or area in
7 which the real property is located, and to represent, directly or
8 indirectly, that this change will or may result in undesirable
9 consequences in the block, neighborhood or area in which the real
10 property is located, including, but not limited to the lowering of
11 property values, an increase in criminal or anti-social behavior, or a
12 decline in the quality of schools or other facilities.

13 l. For any person to refuse to buy from, sell to, lease from or
14 to, license, contract with, or trade with, provide goods, services or
15 information to, or otherwise do business with any other person on
16 the basis of the race, creed, color, national origin, ancestry, age,
17 sex, 'gender identity or expression.' affectional or sexual
18 orientation, marital status, 'civil union status.' domestic partnership
19 status, liability for service in the Armed Forces of the United States,
20 disability, nationality, or source of lawful income used for rental or
21 mortgage payments of such other person or of such other person's
22 spouse, partners, members, stockholders, directors, officers,
23 managers, superintendents, agents, employees, business associates,
24 suppliers, or customers. This subsection shall not prohibit refusals
25 or other actions (1) pertaining to employee-employer collective
26 bargaining, labor disputes, or unfair labor practices, or (2) made or
27 taken in connection with a protest of unlawful discrimination or
28 unlawful employment practices.

29 m. For any person to:

30 (1) Grant or accept any letter of credit or other document which
31 evidences the transfer of funds or credit, or enter into any contract
32 for the exchange of goods or services, where the letter of credit,
33 contract, or other document contains any provisions requiring any
34 person to discriminate against or to certify that he, she or it has not
35 dealt with any other person on the basis of the race, creed, color,
36 national origin, ancestry, age, sex, 'gender identity or expression.'
37 affectional or sexual orientation, marital status, 'civil union status.'
38 domestic partnership status, disability, liability for service in the
39 Armed Forces of the United States, or nationality of such other
40 person or of such other person's spouse, partners, members,
41 stockholders, directors, officers, managers, superintendents, agents,
42 employees, business associates, suppliers, or customers.

43 (2) Refuse to grant or accept any letter of credit or other
44 document which evidences the transfer of funds or credit, or refuse
45 to enter into any contract for the exchange of goods or services, on
46 the ground that it does not contain such a discriminatory provision
47 or certification.

1 The provisions of this subsection shall not apply to any letter of
2 credit, contract, or other document which contains any provision
3 pertaining to employee-employer collective bargaining, a labor
4 dispute or an unfair labor practice, or made in connection with the
5 protest of unlawful discrimination or an unlawful employment
6 practice, if the other provisions of such letter of credit, contract, or
7 other document do not otherwise violate the provisions of this
8 subsection.

9 n. For any person to aid, abet, incite, compel, coerce, or induce
10 the doing of any act forbidden by subsections l. and m. of section
11 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to
12 do so. Such prohibited conduct shall include, but not be limited to:

13 (1) Buying from, selling to, leasing from or to, licensing,
14 contracting with, trading with, providing goods, services, or
15 information to, or otherwise doing business with any person
16 because that person does, or agrees or attempts to do, any such act
17 or any act prohibited by this subsection; or

18 (2) Boycotting, commercially blacklisting or refusing to buy
19 from, sell to, lease from or to, license, contract with, provide goods,
20 services or information to, or otherwise do business with any person
21 because that person has not done or refuses to do any such act or
22 any act prohibited by this subsection; provided that this subsection
23 shall not prohibit refusals or other actions either pertaining to
24 employee-employer collective bargaining, labor disputes, or unfair
25 labor practices, or made or taken in connection with a protest of
26 unlawful discrimination or unlawful employment practices.

27 o. For any multiple listing service, real estate brokers'
28 organization or other service, organization or facility related to the
29 business of selling or renting dwellings to deny any person access
30 to or membership or participation in such organization, or to
31 discriminate against such person in the terms or conditions of such
32 access, membership, or participation, on account of race, creed,
33 color, national origin, ancestry, age, marital status, 'civil union
34 status,' domestic partnership status, familial status, sex, 'gender
35 identity or expression,' affectional or sexual orientation, disability
36 or nationality.

37 p. 'Nothing in the provisions of this section shall affect the
38 ability of an employer to require employees to adhere to reasonable
39 workplace appearance, grooming and dress standards not precluded
40 by other provisions of State or federal law, except that an employer
41 shall allow an employee to appear, groom and dress consistent with
42 the employee's gender identity or expression.

43 q. '(1) For any employer'[, employee or an agent thereof,]' to
44 impose upon a person as a condition of obtaining or retaining
45 employment, including opportunities for promotion, advancement
46 or transfers, any terms or conditions that would require a person to
47 violate or forego a sincerely held religious practice or religious

1 observance, including but not limited to the observance of any
2 particular day or days or any portion thereof as a Sabbath or other
3 holy day in accordance with the requirements of the religion or
4 religious belief, unless, after engaging in a bona fide effort, the
5 employer demonstrates that it is unable to reasonably accommodate
6 the employee's religious observance or practice without undue
7 hardship on the conduct of the employer's business.
8 '[Notwithstanding any other provision of law to the contrary, an
9 employee shall not be entitled to premium wages or premium
10 benefits for work performed during hours to which those premium
11 wages or premium benefits would ordinarily be applicable, if the
12 employee is working during those hours only as an accommodation
13 to his religious requirements.] ²Notwithstanding any other
14 provision of law to the contrary, an employee shall not be entitled
15 to premium wages or premium benefits for work performed during
16 hours to which those premium wages or premium benefits would
17 ordinarily be applicable, if the employee is working during those
18 hours only as an accommodation to his religious requirements.²

19 Nothing in this subsection q. shall be construed as reducing:

20 (a) The number of the hours worked by the employee which are
21 counted towards the accruing of seniority, pension or other benefits;
22 or

23 (b) Any premium wages or benefits provided to an employee
24 pursuant to a collective bargaining agreement.¹

25 (2) For an employer to refuse to permit an employee to utilize
26 leave, as provided for in '[paragraph (3) of]' this subsection q.,
27 '[solely because the leave will be]' which is solely¹ used to
28 accommodate the employee's sincerely held religious observance or
29 practice. '[3)]' Except where it would cause an employer to incur
30 an undue hardship, no person shall be required to remain at his
31 place of employment during any day or days or portion thereof that,
32 as a requirement of his religion, he observes as his Sabbath or other
33 holy day, including a reasonable time prior and subsequent thereto
34 for travel between his place of employment and his home; provided
35 that any such absence from work shall, wherever practicable in the
36 reasonable judgment of the employer, be made up by an equivalent
37 amount of time and work at some other mutually convenient time,
38 or shall be charged against any leave with pay ordinarily granted,
39 other than sick leave, and any such absence not so made up or
40 charged, may be treated by the employer of that person as leave
41 taken without pay.

42 '[(4)] (3)' (a) For purposes of this '[section,]' subsection q.,¹
43 "undue hardship" means an accommodation requiring
44 '[significant] unreasonable¹ expense or difficulty, ¹unreasonable ¹
45 interference with the safe or efficient operation of the workplace or
46 a violation of a bona fide seniority system ¹or a violation of any
47 provision of a bona fide collective bargaining agreement¹.

1 **(b) In determining whether the accommodation constitutes an**
2 **undue '[economic]' hardship '[a court shall consider], the factors**
3 **considered shall include'**;

4 **(i) The identifiable cost of the accommodation, including the**
5 **costs of loss of productivity and of retaining or hiring employees or**
6 **transferring employees from one facility to another, in relation to**
7 **the size and operating cost of the employer.**

8 **(ii) The number of individuals who will need the particular**
9 **accommodation for a sincerely held religious observance or**
10 **practice.**

11 **(iii) For an employer with multiple facilities, the degree to which**
12 **the geographic separateness or administrative or fiscal relationship**
13 **of the facilities will make the accommodation more difficult or**
14 **expensive.**

15 **'(c)' An accommodation shall be considered to constitute an**
16 **undue hardship if it will result in the inability of an employee to**
17 **perform the essential functions of the position in which he or she is**
18 **employed.**

19 **'(d) (1) The provisions of this subsection q. shall be applicable**
20 **only to reasonable accommodations of religious observances and**
21 **shall not supercede any definition of undue hardship or standards**
22 **for reasonable accommodation of the disabilities of employees.**

23 **(2) This subsection q. shall not apply where the uniform**
24 **application of terms and conditions of attendance to employees is**
25 **essential to prevent undue hardship to the employer. The burden of**
26 **proof regarding the applicability of this subsection (d) shall be upon**
27 **the employer.'**

28 (cf: P.L.2006, c.103, s.88)

29
30 3. This act shall take effect immediately.