

[First Reprint]

SENATE, No. 2995

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED SEPTEMBER 30, 2013

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Senators Beck, Ruiz, Assemblywomen Mosquera, Vainieri Huttle and Jasey

SYNOPSIS

Prohibits discrimination based on pregnancy, childbirth or related medical conditions.

CURRENT VERSION OF TEXT

As reported by the Senate Labor Committee on November 7, 2013, with amendments.



(Sponsorship Updated As Of: 1/7/2014)

1 AN ACT concerning discrimination based on pregnancy, childbirth
2 or related medical conditions and amending ¹and supplementing¹
3 P.L.1945, c.169.

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

7
8 ¹1. (New section) The Legislature finds and declares:

9 a. That pregnant women are vulnerable to discrimination in the
10 workplace in New Jersey, as indicated in reports that women who
11 request an accommodation that will allow them to maintain a
12 healthy pregnancy, or who need a reasonable accommodation while
13 recovering from childbirth, are being removed from their positions,
14 placed on unpaid leave, or fired;

15 b. It is the intent of the Legislature to combat this form of
16 discrimination by requiring employers to provide reasonable
17 accommodations to pregnant women and those who suffer medical
18 conditions related to pregnancy and childbirth, such as bathroom
19 breaks, breaks for increased water intake, periodic rest, assistance
20 with manual labor, job restructuring or modified work schedules,
21 and temporary transfers to less strenuous or hazardous work; and

22 c. It is not the intent of the Legislature to require such
23 accommodations if their provision would cause an undue hardship
24 in the conduct of an employer's business.¹

25
26 **[1.] 2.**¹ Section 11 of P.L.1945, c.169 (C.10:5-12) is amended
27 to read as follows:

28 11. It shall be an unlawful employment practice, or, as the case
29 may be, an unlawful discrimination:

30 a. For an employer, because of the race, creed, color, national
31 origin, ancestry, age, marital status, civil union status, domestic
32 partnership status, affectional or sexual orientation, genetic
33 information, pregnancy, sex, gender identity or expression,
34 disability or atypical hereditary cellular or blood trait of any
35 individual, or because of the liability for service in the Armed
36 Forces of the United States or the nationality of any individual, or
37 because of the refusal to submit to a genetic test or make available
38 the results of a genetic test to an employer, to refuse to hire or
39 employ or to bar or to discharge or require to retire, unless justified
40 by lawful considerations other than age, from employment such
41 individual or to discriminate against such individual in
42 compensation or in terms, conditions or privileges of employment;
43 provided, however, it shall not be an unlawful employment practice
44 to refuse to accept for employment an applicant who has received a

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:

¹Senate SLA committee amendments adopted November 7, 2013.

1 notice of induction or orders to report for active duty in the armed
2 forces; provided further that nothing herein contained shall be
3 construed to bar an employer from refusing to accept for
4 employment any person on the basis of sex in those certain
5 circumstances where sex is a bona fide occupational qualification,
6 reasonably necessary to the normal operation of the particular
7 business or enterprise; provided further that nothing herein
8 contained shall be construed to bar an employer from refusing to
9 accept for employment or to promote any person over 70 years of
10 age; provided further that it shall not be an unlawful employment
11 practice for a club exclusively social or fraternal to use club
12 membership as a uniform qualification for employment, or for a
13 religious association or organization to utilize religious affiliation
14 as a uniform qualification in the employment of clergy, religious
15 teachers or other employees engaged in the religious activities of
16 the association or organization, or in following the tenets of its
17 religion in establishing and utilizing criteria for employment of an
18 employee; provided further, that it shall not be an unlawful
19 employment practice to require the retirement of any employee
20 who, for the two-year period immediately before retirement, is
21 employed in a bona fide executive or a high policy-making position,
22 if that employee is entitled to an immediate non-forfeitable annual
23 retirement benefit from a pension, profit sharing, savings or
24 deferred retirement plan, or any combination of those plans, of the
25 employer of that employee which equals in the aggregate at least
26 \$27,000.00; and provided further that an employer may restrict
27 employment to citizens of the United States where such restriction
28 is required by federal law or is otherwise necessary to protect the
29 national interest.

30 The provisions of subsections a. and b. of section 57 of
31 P.L.2003, c.246 (C.34:11A-20), and the provisions of section 58 of
32 P.L.2003, c.246 (C.26:8A-11), shall not be deemed to be an
33 unlawful discrimination under P.L.1945, c.169 (C.10:5-1 et seq.).

34 For the purposes of this subsection, a "bona fide executive" is a
35 top level employee who exercises substantial executive authority
36 over a significant number of employees and a large volume of
37 business. A "high policy-making position" is a position in which a
38 person plays a significant role in developing policy and in
39 recommending the implementation thereof.

40 b. For a labor organization, because of the race, creed, color,
41 national origin, ancestry, age, marital status, civil union status,
42 domestic partnership status, affectional or sexual orientation,
43 gender identity or expression, disability, pregnancy, or sex of any
44 individual, or because of the liability for service in the Armed
45 Forces of the United States or nationality of any individual, to
46 exclude or to expel from its membership such individual or to
47 discriminate in any way against any of its members, against any
48 applicant for, or individual included in, any apprentice or other

1 training program or against any employer or any individual
2 employed by an employer; provided, however, that nothing herein
3 contained shall be construed to bar a labor organization from
4 excluding from its apprentice or other training programs any person
5 on the basis of sex in those certain circumstances where sex is a
6 bona fide occupational qualification reasonably necessary to the
7 normal operation of the particular apprentice or other training
8 program.

9 c. For any employer or employment agency to print or circulate
10 or cause to be printed or circulated any statement, advertisement or
11 publication, or to use any form of application for employment, or to
12 make an inquiry in connection with prospective employment, which
13 expresses, directly or indirectly, any limitation, specification or
14 discrimination as to race, creed, color, national origin, ancestry,
15 age, marital status, civil union status, domestic partnership status,
16 affectional or sexual orientation, gender identity or expression,
17 disability, nationality, pregnancy, or sex or liability of any applicant
18 for employment for service in the Armed Forces of the United
19 States, or any intent to make any such limitation, specification or
20 discrimination, unless based upon a bona fide occupational
21 qualification.

22 d. For any person to take reprisals against any person because
23 that person has opposed any practices or acts forbidden under this
24 act or because that person has filed a complaint, testified or assisted
25 in any proceeding under this act or to coerce, intimidate, threaten or
26 interfere with any person in the exercise or enjoyment of, or on
27 account of that person having aided or encouraged any other person
28 in the exercise or enjoyment of, any right granted or protected by
29 this act.

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

33 f. (1) For any owner, lessee, proprietor, manager,
34 superintendent, agent, or employee of any place of public
35 accommodation directly or indirectly to refuse, withhold from or
36 deny to any person any of the accommodations, advantages,
37 facilities or privileges thereof, or to discriminate against any person
38 in the furnishing thereof, or directly or indirectly to publish,
39 circulate, issue, display, post or mail any written or printed
40 communication, notice, or advertisement to the effect that any of
41 the accommodations, advantages, facilities, or privileges of any
42 such place will be refused, withheld from, or denied to any person
43 on account of the race, creed, color, national origin, ancestry,
44 marital status, civil union status, domestic partnership status,
45 pregnancy, sex, gender identity or expression, affectional or sexual
46 orientation, disability or nationality of such person, or that the
47 patronage or custom thereof of any person of any particular race,
48 creed, color, national origin, ancestry, marital status, civil union

1 status, domestic partnership status, pregnancy status, sex, gender
2 identity or expression, affectional or sexual orientation, disability or
3 nationality is unwelcome, objectionable or not acceptable, desired
4 or solicited, and the production of any such written or printed
5 communication, notice or advertisement, purporting to relate to any
6 such place and to be made by any owner, lessee, proprietor,
7 superintendent or manager thereof, shall be presumptive evidence in
8 any action that the same was authorized by such person; provided,
9 however, that nothing contained herein shall be construed to bar any
10 place of public accommodation which is in its nature reasonably
11 restricted exclusively to individuals of one sex, and which shall
12 include but not be limited to any summer camp, day camp, or resort
13 camp, bathhouse, dressing room, swimming pool, gymnasium,
14 comfort station, dispensary, clinic or hospital, or school or
15 educational institution which is restricted exclusively to individuals
16 of one sex, provided individuals shall be admitted based on their
17 gender identity or expression, from refusing, withholding from or
18 denying to any individual of the opposite sex any of the
19 accommodations, advantages, facilities or privileges thereof on the
20 basis of sex; provided further, that the foregoing limitation shall not
21 apply to any restaurant as defined in R.S.33:1-1 or place where
22 alcoholic beverages are served.

23 (2) Notwithstanding the definition of "a place of public
24 accommodation" as set forth in subsection l. of section 5 of
25 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,
26 manager, superintendent, agent, or employee of any private club or
27 association to directly or indirectly refuse, withhold from or deny to
28 any individual who has been accepted as a club member and has
29 contracted for or is otherwise entitled to full club membership any
30 of the accommodations, advantages, facilities or privileges thereof,
31 or to discriminate against any member in the furnishing thereof on
32 account of the race, creed, color, national origin, ancestry, marital
33 status, civil union status, domestic partnership status, pregnancy,
34 sex, gender identity, or expression, affectional or sexual orientation,
35 disability or nationality of such person.

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

44 g. For any person, including but not limited to, any owner,
45 lessee, sublessee, assignee or managing agent of, or other person
46 having the right of ownership or possession of or the right to sell,
47 rent, lease, assign, or sublease any real property or part or portion
48 thereof, or any agent or employee of any of these:

1 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
2 to deny to or withhold from any person or group of persons any real
3 property or part or portion thereof because of race, creed, color,
4 national origin, ancestry, marital status, civil union status, domestic
5 partnership status, pregnancy, sex, gender identity or expression,
6 affectional or sexual orientation, familial status, disability,
7 nationality, or source of lawful income used for rental or mortgage
8 payments;

9 (2) To discriminate against any person or group of persons
10 because of race, creed, color, national origin, ancestry, marital
11 status, civil union status, domestic partnership status, pregnancy,
12 sex, gender identity or expression, affectional or sexual orientation,
13 familial status, disability, nationality or source of lawful income
14 used for rental or mortgage payments in the terms, conditions or
15 privileges of the sale, rental or lease of any real property or part or
16 portion thereof or in the furnishing of facilities or services in
17 connection therewith;

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

44 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
45 to deny to or withhold from any person or group of persons any real
46 property or part or portion thereof because of the source of any
47 lawful income received by the person or the source of any lawful
48 rent payment to be paid for the real property; or

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

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

10 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
11 sale, rental, lease, assignment, or sublease any real property or part
12 or portion thereof to any person or group of persons or to refuse to
13 negotiate for the sale, rental, lease, assignment, or sublease of any
14 real property or part or portion thereof to any person or group of
15 persons because of race, creed, color, national origin, ancestry,
16 marital status, civil union status, domestic partnership status,
17 familial status, pregnancy, sex, gender identity or expression,
18 affectional or sexual orientation, disability, nationality, or source of
19 lawful income used for rental or mortgage payments, or to represent
20 that any real property or portion thereof is not available for
21 inspection, sale, rental, lease, assignment, or sublease when in fact
22 it is so available, or otherwise to deny or withhold any real property
23 or any part or portion of facilities thereof to or from any person or
24 group of persons because of race, creed, color, national origin,
25 ancestry, marital status, civil union status, domestic partnership
26 status, familial status, pregnancy, sex, gender identity or expression,
27 affectional or sexual orientation, disability or nationality;

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

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

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

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

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

27 i. For any person, bank, banking organization, mortgage
28 company, insurance company or other financial institution, lender
29 or credit institution involved in the making or purchasing of any
30 loan or extension of credit, for whatever purpose, whether secured
31 by residential real estate or not, including but not limited to
32 financial assistance for the purchase, acquisition, construction,
33 rehabilitation, repair or maintenance of any real property or part or
34 portion thereof or any agent or employee thereof:

35 (1) To discriminate against any person or group of persons
36 because of race, creed, color, national origin, ancestry, marital
37 status, civil union status, domestic partnership status, pregnancy,
38 sex, gender identity or expression, affectional or sexual orientation,
39 disability, familial status or nationality, in the granting,
40 withholding, extending, modifying, renewing, or purchasing, or in
41 the fixing of the rates, terms, conditions or provisions of any such
42 loan, extension of credit or financial assistance or purchase thereof
43 or in the extension of services in connection therewith;

44 (2) To use any form of application for such loan, extension of
45 credit or financial assistance or to make record or inquiry in
46 connection with applications for any such loan, extension of credit
47 or financial assistance which expresses, directly or indirectly, any
48 limitation, specification or discrimination as to race, creed, color,

1 national origin, ancestry, marital status, civil union status, domestic
2 partnership status, pregnancy, sex, gender identity or expression,
3 affectional or sexual orientation, disability, familial status or
4 nationality or any intent to make any such limitation, specification
5 or discrimination; unless otherwise required by law or regulation to
6 retain or use such information;

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

8 (4) To discriminate against any person or group of persons
9 because of the source of any lawful income received by the person
10 or the source of any lawful rent payment to be paid for the real
11 property; or

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

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

23 k. For any real estate broker, real estate salesperson or
24 employee or agent thereof or any other individual, corporation,
25 partnership, or organization, for the purpose of inducing a
26 transaction for the sale or rental of real property from which
27 transaction such person or any of its members may benefit
28 financially, to represent that a change has occurred or will or may
29 occur in the composition with respect to race, creed, color, national
30 origin, ancestry, marital status, civil union status, domestic
31 partnership status, familial status, pregnancy, sex, gender identity or
32 expression, affectional or sexual orientation, disability, nationality,
33 or source of lawful income used for rental or mortgage payments of
34 the owners or occupants in the block, neighborhood or area in
35 which the real property is located, and to represent, directly or
36 indirectly, that this change will or may result in undesirable
37 consequences in the block, neighborhood or area in which the real
38 property is located, including, but not limited to the lowering of
39 property values, an increase in criminal or anti-social behavior, or a
40 decline in the quality of schools or other facilities.

41 l. For any person to refuse to buy from, sell to, lease from or
42 to, license, contract with, or trade with, provide goods, services or
43 information to, or otherwise do business with any other person on
44 the basis of the race, creed, color, national origin, ancestry, age,
45 pregnancy, sex, gender identity or expression, affectional or sexual
46 orientation, marital status, civil union status, domestic partnership
47 status, liability for service in the Armed Forces of the United States,
48 disability, nationality, or source of lawful income used for rental or

1 mortgage payments of such other person or of such other person's
2 spouse, partners, members, stockholders, directors, officers,
3 managers, superintendents, agents, employees, business associates,
4 suppliers, or customers. This subsection shall not prohibit refusals
5 or other actions (1) pertaining to employee-employer collective
6 bargaining, labor disputes, or unfair labor practices, or (2) made or
7 taken in connection with a protest of unlawful discrimination or
8 unlawful employment practices.

9 m. For any person to:

10 (1) Grant or accept any letter of credit or other document which
11 evidences the transfer of funds or credit, or enter into any contract
12 for the exchange of goods or services, where the letter of credit,
13 contract, or other document contains any provisions requiring any
14 person to discriminate against or to certify that he, she or it has not
15 dealt with any other person on the basis of the race, creed, color,
16 national origin, ancestry, age, pregnancy, sex, gender identity or
17 expression, affectional or sexual orientation, marital status, civil
18 union status, domestic partnership status, disability, liability for
19 service in the Armed Forces of the United States, or nationality of
20 such other person or of such other person's spouse, partners,
21 members, stockholders, directors, officers, managers,
22 superintendents, agents, employees, business associates, suppliers,
23 or customers.

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

29 The provisions of this subsection shall not apply to any letter of
30 credit, contract, or other document which contains any provision
31 pertaining to employee-employer collective bargaining, a labor
32 dispute or an unfair labor practice, or made in connection with the
33 protest of unlawful discrimination or an unlawful employment
34 practice, if the other provisions of such letter of credit, contract, or
35 other document do not otherwise violate the provisions of this
36 subsection.

37 n. For any person to aid, abet, incite, compel, coerce, or induce
38 the doing of any act forbidden by subsections l. and m. of section
39 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to
40 do so. Such prohibited conduct shall include, but not be limited to:

41 (1) Buying from, selling to, leasing from or to, licensing,
42 contracting with, trading with, providing goods, services, or
43 information to, or otherwise doing business with any person
44 because that person does, or agrees or attempts to do, any such act
45 or any act prohibited by this subsection; or

46 (2) Boycotting, commercially blacklisting or refusing to buy
47 from, sell to, lease from or to, license, contract with, provide goods,
48 services or information to, or otherwise do business with any person

1 because that person has not done or refuses to do any such act or
2 any act prohibited by this subsection; provided that this subsection
3 shall not prohibit refusals or other actions either pertaining to
4 employee-employer collective bargaining, labor disputes, or unfair
5 labor practices, or made or taken in connection with a protest of
6 unlawful discrimination or unlawful employment practices.

7 o. For any multiple listing service, real estate brokers'
8 organization or other service, organization or facility related to the
9 business of selling or renting dwellings to deny any person access
10 to or membership or participation in such organization, or to
11 discriminate against such person in the terms or conditions of such
12 access, membership, or participation, on account of race, creed,
13 color, national origin, ancestry, age, marital status, civil union
14 status, domestic partnership status, familial status, pregnancy, sex,
15 gender identity or expression, affectional or sexual orientation,
16 disability or nationality.

17 p. Nothing in the provisions of this section shall affect the
18 ability of an employer to require employees to adhere to reasonable
19 workplace appearance, grooming and dress standards not precluded
20 by other provisions of State or federal law, except that an employer
21 shall allow an employee to appear, groom and dress consistent with
22 the employee's gender identity or expression.

23 q. (1) For any employer to impose upon a person as a condition
24 of obtaining or retaining employment, including opportunities for
25 promotion, advancement or transfers, any terms or conditions that
26 would require a person to violate or forego a sincerely held
27 religious practice or religious observance, including but not limited
28 to the observance of any particular day or days or any portion
29 thereof as a Sabbath or other holy day in accordance with the
30 requirements of the religion or religious belief, unless, after
31 engaging in a bona fide effort, the employer demonstrates that it is
32 unable to reasonably accommodate the employee's religious
33 observance or practice without undue hardship on the conduct of the
34 employer's business. Notwithstanding any other provision of law to
35 the contrary, an employee shall not be entitled to premium wages or
36 premium benefits for work performed during hours to which those
37 premium wages or premium benefits would ordinarily be
38 applicable, if the employee is working during those hours only as an
39 accommodation to his religious requirements. Nothing in this
40 subsection q. shall be construed as reducing:

41 (a) The number of the hours worked by the employee which are
42 counted towards the accruing of seniority, pension or other benefits;
43 or

44 (b) Any premium wages or benefits provided to an employee
45 pursuant to a collective bargaining agreement.

46 (2) For an employer to refuse to permit an employee to utilize
47 leave, as provided for in this subsection q., which is solely used to
48 accommodate the employee's sincerely held religious observance or

1 practice. Except where it would cause an employer to incur an
2 undue hardship, no person shall be required to remain at his place
3 of employment during any day or days or portion thereof that, as a
4 requirement of his religion, he observes as his Sabbath or other holy
5 day, including a reasonable time prior and subsequent thereto for
6 travel between his place of employment and his home; provided that
7 any such absence from work shall, wherever practicable in the
8 reasonable judgment of the employer, be made up by an equivalent
9 amount of time and work at some other mutually convenient time,
10 or shall be charged against any leave with pay ordinarily granted,
11 other than sick leave, and any such absence not so made up or
12 charged, may be treated by the employer of that person as leave
13 taken without pay.

14 (3) (a) For purposes of this subsection q., "undue hardship"
15 means an accommodation requiring unreasonable expense or
16 difficulty, unreasonable interference with the safe or efficient
17 operation of the workplace or a violation of a bona fide seniority
18 system or a violation of any provision of a bona fide collective
19 bargaining agreement.

20 (b) In determining whether the accommodation constitutes an
21 undue hardship, the factors considered shall include:

22 (i) The identifiable cost of the accommodation, including the
23 costs of loss of productivity and of retaining or hiring employees or
24 transferring employees from one facility to another, in relation to
25 the size and operating cost of the employer.

26 (ii) The number of individuals who will need the particular
27 accommodation for a sincerely held religious observance or
28 practice.

29 (iii) For an employer with multiple facilities, the degree to which
30 the geographic separateness or administrative or fiscal relationship
31 of the facilities will make the accommodation more difficult or
32 expensive.

33 (c) An accommodation shall be considered to constitute an
34 undue hardship if it will result in the inability of an employee to
35 perform the essential functions of the position in which he or she is
36 employed.

37 (d) (i) The provisions of this subsection q. shall be applicable
38 only to reasonable accommodations of religious observances and
39 shall not supersede any definition of undue hardship or standards
40 for reasonable accommodation of the disabilities of employees.

41 (ii) This subsection q. shall not apply where the uniform
42 application of terms and conditions of attendance to employees is
43 essential to prevent undue hardship to the employer. The burden of
44 proof regarding the applicability of this subparagraph (d) shall be
45 upon the employer.

46 r. ¹For any employer to take reprisals against any employee for
47 requesting from any other employee or former employee of the
48 employer information regarding the job title, occupational category,

1 and rate of compensation, including benefits, of any employee or
2 former employee of the employer, or the gender, race, ethnicity,
3 military status, or national origin of any employee or former
4 employee of the employer, regardless of whether the request was
5 responded to, if the purpose of the request for the information was
6 to assist in investigating the possibility of the occurrence of, or in
7 taking of legal action regarding, potential discriminatory treatment
8 concerning pay, compensation, bonuses, other compensation, or
9 benefits. Nothing in this subsection shall be construed to require an
10 employee to disclose such information about the employee herself
11 to any other employee or former employee of the employer or to
12 any authorized representative of the other employee or former
13 employee.

14 s.¹ For an employer to treat, for employment-related purposes, a
15 woman ¹employee that the employer knows, or should know, is¹
16 affected by pregnancy in a manner less favorable than the treatment
17 of other persons not affected by pregnancy but similar in their
18 ability or inability to work. ¹**[An]** In addition, an¹ employer of an
19 employee who is a woman affected by pregnancy shall make
20 available to the employee reasonable accommodation ¹in the
21 workplace, such as bathroom breaks, breaks for increased water
22 intake, periodic rest, assistance with manual labor, job restructuring
23 or modified work schedules, and temporary transfers to less
24 strenuous or hazardous work,¹ for needs related to the pregnancy
25 when the employee, ¹**[with]** based on¹ the advice of her physician,
26 requests the accommodation, ¹**[and]** unless the employer can
27 demonstrate that providing the accommodation would be an undue
28 hardship on the business operations of the employer. The
29 employer¹ shall not in any way penalize the employee in terms,
30 conditions or privileges of employment for ¹requesting or¹ using the
31 accommodation ¹**[or, whenever accommodation is not feasible, for**
32 taking an amount of time away from work as required by the
33 pregnancy, as certified by the physician of the employee taking into
34 account the condition of the employee and the job requirements¹.
35 Workplace accommodation provided pursuant to this subsection and
36 paid or unpaid leave provided to an employee affected by
37 pregnancy shall not be provided in a manner less favorable than
38 accommodations or leave provided to other employees not affected
39 by pregnancy but similar in their ability or inability to work. This
40 subsection shall not be construed as otherwise increasing or
41 decreasing any employee's rights under law to paid or unpaid leave
42 in connection with pregnancy¹.

43 For the purposes of this section "pregnancy" means pregnancy,
44 childbirth, or medical conditions related to pregnancy or childbirth¹,
45 including recovery from childbirth.

46 For the purposes of this subsection, in determining whether an
47 accommodation would impose undue hardship on the operation of

1 an employer's business, the factors to be considered include: the
2 overall size of the employer's business with respect to the number
3 of employees, number and type of facilities, and size of budget; the
4 type of the employer's operations, including the composition and
5 structure of the employer's workforce; the nature and cost of the
6 accommodation needed, taking into consideration the availability of
7 tax credits, tax deductions, and outside funding; and the extent to
8 which the accommodation would involve waiver of an essential
9 requirement of a job as opposed to a tangential or non-business
10 necessity requirement¹.

11 (cf: P.L.2013, c.154)

12

13 ¹**[2.] 3.**¹ This act shall take effect immediately.