

SENATE, No. 333

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senator Weinberg

SYNOPSIS

Establishes the “Healthy Workplace Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 10/2/2012)

1 AN ACT concerning abusive conduct in the workplace and
2 supplementing Title 34 of the New Jersey Statutes.

3

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

6

7 1. This act shall be known and may be cited as the “Healthy
8 Workplace Act.”

9

10 2. The Legislature finds and declares that:

11 a. The social and economic well-being of the State is
12 dependant upon healthy and productive employees.

13 b. Surveys and studies have shown that between 16 to 21
14 percent of employees nationwide have directly experienced health-
15 endangering workplace bullying, abuse, and harassment. Those
16 studies further show that this behavior is four times more prevalent
17 than sexual harassment alone.

18 c. Studies have documented that abusive work environments
19 can have serious effects on affected employees, including feelings
20 of shame and humiliation, stress, loss of sleep, severe anxiety,
21 depression, post-traumatic stress disorder, reduced immunity to
22 infection, gastrointestinal disorders and hypertension. Moreover,
23 abusive work environments can have serious consequences for
24 employers, including reduced employee productivity and morale,
25 higher turnover and absenteeism rates and significant increases in
26 medical and workers’ compensation claims.

27 d. Current employment discrimination law provides protection
28 only for those employees who have been subjected to abusive
29 treatment at work on the basis of race, color, sex, national origin, or
30 age. Furthermore, existing workers’ compensation laws are
31 inadequate to discourage this kind of behavior or provide adequate
32 redress to employees who have been harmed by abusive work
33 environments.

34 e. It is therefore appropriate to establish and provide adequate
35 procedures and remedies for employees aggrieved in this way.

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37 3. For the purposes of this act:

38 “Abusive conduct” means the malicious conduct of an employer
39 or employee in the workplace that a reasonable person would find
40 hostile, offensive or unrelated to an employer’s legitimate business
41 interest. Abusive conduct may include, but is not limited to,
42 repeated infliction of verbal abuse such as the use of derogatory
43 remarks, insults, and epithets; verbal or physical conduct that a
44 reasonable person would find threatening, intimidating, or
45 humiliating; or the gratuitous sabotage or undermining of a person’s
46 work performance. A single act shall not constitute abusive contact
47 unless it is especially severe and egregious.

48 “Abusive work environment” means a workplace in which an

1 employee is subjected to abusive conduct that is so severe that it
2 causes physical or psychological harm to the employee.

3 “Employee” means any person engaged in service to an
4 employer for wages, salary or other compensation.

5 “Employer” means a corporation, partnership, individual
6 proprietor, joint venture, firm, company or other similar entity, the
7 State and any political subdivision or other instrumentality of the
8 State.

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10 4. It shall be an unlawful employment practice for an employer
11 to subject an employee to abusive conduct or to permit an abusive
12 work environment.

13 It shall be an unlawful employment practice for an employer to
14 retaliate in any manner against an employee because he has brought
15 an action under this act, or because he has made a charge, testified,
16 assisted or participated in any manner in an investigation or
17 proceeding under this act.

18

19 5. a. An employer who knowingly and willingly violates the
20 provisions of this act shall be liable for a penalty of not more than
21 \$25,000.

22 b. It shall be an affirmative defense to an action regarding an
23 abusive work environment that the employer exercised reasonable
24 care to prevent and promptly correct the abusive conduct and the
25 aggrieved employee failed to take advantage of appropriate
26 preventative or corrective opportunities provided by the employer.

27 c. The remedies provided for in this section shall be in addition
28 to any remedies provided under the workers’ compensation laws,
29 except that if a person elects to receive workers’ compensation in
30 connection with the abusive workplace conduct in lieu of bringing a
31 separate legal action, then they shall not be permitted to recover
32 damages under a separate legal action pursuant to this act.

33

34 6. The Commissioner of Labor and Workforce Development
35 shall, pursuant to the "Administrative Procedure Act," P.L.1968,
36 c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to
37 implement the purposes of this act.

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39 7. This act shall take effect immediately.

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STATEMENT

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44 This bill, the “Healthy Workplace Act,” makes it an unlawful
45 employment practice for an employer to subject an employee to
46 abusive conduct or to permit an abusive work environment.
47 Moreover, it makes it an unlawful employment practice for an
48 employer to retaliate in any manner against an employee because he

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1 has brought legal action, or because he has made a charge, testified,
2 assisted or participated in any manner in an investigation or
3 proceeding related to the abusive conduct or work environment.

4 Under the bill, any employer who knowingly and willingly
5 violates any provisions will be liable for a penalty of not more than
6 \$25,000. The bill provides the employer with an affirmative
7 defense to an action for an abusive work environment if he can
8 show that he exercised reasonable care to prevent and promptly
9 correct the abusive conduct and that the aggrieved employee failed
10 to take advantage of appropriate preventative or corrective
11 opportunities provided by the employer. The bill further provides
12 that if a person elects to receive workers' compensation in
13 connection with the abusive workplace conduct in lieu of bringing a
14 separate legal action, then they will not be permitted to recover
15 damages under a separate legal action.

16 Finally, the bill directs the Commissioner of Labor and
17 Workforce Development to adopt rules and regulations necessary to
18 implement the provisions of the bill.