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

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

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

2. The Legislature finds and declares that:
   a. The social and economic well-being of the State is dependant upon healthy and productive employees.
   b. Surveys and studies have shown that between 16 to 21 percent of employees nationwide have directly experienced health-endangering workplace bullying, abuse, and harassment. Those studies further show that this behavior is four times more prevalent than sexual harassment alone.
   c. Studies have documented that abusive work environments can have serious effects on affected employees, including feelings of shame and humiliation, stress, loss of sleep, severe anxiety, depression, post-traumatic stress disorder, reduced immunity to infection, gastrointestinal disorders and hypertension. Moreover, abusive work environments can have serious consequences for employers, including reduced employee productivity and morale, higher turnover and absenteeism rates and significant increases in medical and workers’ compensation claims.
   d. Current employment discrimination law provides protection only for those employees who have been subjected to abusive treatment at work on the basis of race, color, sex, national origin, or age. Furthermore, existing workers’ compensation laws are inadequate to discourage this kind of behavior or provide adequate redress to employees who have been harmed by abusive work environments.
   e. It is therefore appropriate to establish and provide adequate procedures and remedies for employees aggrieved in this way.

3. For the purposes of this act:
   “Abusive conduct” means the malicious conduct of an employer or employee in the workplace that a reasonable person would find hostile, offensive or unrelated to an employer’s legitimate business interest. Abusive conduct may include, but is not limited to, repeated infliction of verbal abuse such as the use of derogatory remarks, insults, and epithets; verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating; or the gratuitous sabotage or undermining of a person’s work performance. A single act shall not constitute abusive contact unless it is especially severe and egregious.
   “Abusive work environment” means a workplace in which an
employee is subjected to abusive conduct that is so severe that it causes physical or psychological harm to the employee.

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

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

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

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

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

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

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

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

7. This act shall take effect immediately.

STATEMENT

This bill, the “Healthy Workplace Act,” makes it an unlawful employment practice for an employer to subject an employee to abusive conduct or to permit an abusive work environment. Moreover, it makes it an unlawful employment practice for an employer to retaliate in any manner against an employee because he
has brought legal action, or because he has made a charge, testified, assisted or participated in any manner in an investigation or proceeding related to the abusive conduct or work environment.

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

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