

P.L.2017, CHAPTER 263, *approved January 8, 2018*  
Assembly, No. 2294

1 AN ACT concerning breastfeeding and amending P.L.1945, c.169.

2

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

5

6 1. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to  
7 reach as follows:

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

10 a. For an employer, because of the race, creed, color, national  
11 origin, ancestry, age, marital status, civil union status, domestic  
12 partnership status, affectional or sexual orientation, genetic  
13 information, pregnancy or breastfeeding, sex, gender identity or  
14 expression, disability or atypical hereditary cellular or blood trait of  
15 any individual, or because of the liability for service in the Armed  
16 Forces of the United States or the nationality of any individual, or  
17 because of the refusal to submit to a genetic test or make available  
18 the results of a genetic test to an employer, to refuse to hire or  
19 employ or to bar or to discharge or require to retire, unless justified  
20 by lawful considerations other than age, from employment such  
21 individual or to discriminate against such individual in  
22 compensation or in terms, conditions or privileges of employment;  
23 provided, however, it shall not be an unlawful employment practice  
24 to refuse to accept for employment an applicant who has received a  
25 notice of induction or orders to report for active duty in the armed  
26 forces; provided further that nothing herein contained shall be  
27 construed to bar an employer from refusing to accept for  
28 employment any person on the basis of sex in those certain  
29 circumstances where sex is a bona fide occupational qualification,  
30 reasonably necessary to the normal operation of the particular  
31 business or enterprise; provided further that nothing herein  
32 contained shall be construed to bar an employer from refusing to  
33 accept for employment or to promote any person over 70 years of  
34 age; provided further that it shall not be an unlawful employment  
35 practice for a club exclusively social or fraternal to use club  
36 membership as a uniform qualification for employment, or for a  
37 religious association or organization to utilize religious affiliation  
38 as a uniform qualification in the employment of clergy, religious  
39 teachers or other employees engaged in the religious activities of  
40 the association or organization, or in following the tenets of its  
41 religion in establishing and utilizing criteria for employment of an  
42 employee; provided further, that it shall not be an unlawful  
43 employment practice to require the retirement of any employee

**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.

1 who, for the two-year period immediately before retirement, is  
2 employed in a bona fide executive or a high policy-making position,  
3 if that employee is entitled to an immediate non-forfeitable annual  
4 retirement benefit from a pension, profit sharing, savings or  
5 deferred retirement plan, or any combination of those plans, of the  
6 employer of that employee which equals in the aggregate at least  
7 \$27,000.00; and provided further that an employer may restrict  
8 employment to citizens of the United States where such restriction  
9 is required by federal law or is otherwise necessary to protect the  
10 national interest.

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

15 For the purposes of this subsection, a "bona fide executive" is a  
16 top level employee who exercises substantial executive authority  
17 over a significant number of employees and a large volume of  
18 business. A "high policy-making position" is a position in which a  
19 person plays a significant role in developing policy and in  
20 recommending the implementation thereof.

21 b. For a labor organization, because of the race, creed, color,  
22 national origin, ancestry, age, marital status, civil union status,  
23 domestic partnership status, affectional or sexual orientation,  
24 gender identity or expression, disability, pregnancy or  
25 breastfeeding, or sex of any individual, or because of the liability  
26 for service in the Armed Forces of the United States or nationality  
27 of any individual, to exclude or to expel from its membership such  
28 individual or to discriminate in any way against any of its members,  
29 against any applicant for, or individual included in, any apprentice  
30 or other training program or against any employer or any individual  
31 employed by an employer; provided, however, that nothing herein  
32 contained shall be construed to bar a labor organization from  
33 excluding from its apprentice or other training programs any person  
34 on the basis of sex in those certain circumstances where sex is a  
35 bona fide occupational qualification reasonably necessary to the  
36 normal operation of the particular apprentice or other training  
37 program.

38 c. For any employer or employment agency to print or circulate  
39 or cause to be printed or circulated any statement, advertisement or  
40 publication, or to use any form of application for employment, or to  
41 make an inquiry in connection with prospective employment, which  
42 expresses, directly or indirectly, any limitation, specification or  
43 discrimination as to race, creed, color, national origin, ancestry,  
44 age, marital status, civil union status, domestic partnership status,  
45 affectional or sexual orientation, gender identity or expression,  
46 disability, nationality, pregnancy or breastfeeding, or sex or liability  
47 of any applicant for employment for service in the Armed Forces of  
48 the United States, or any intent to make any such limitation,

1 specification or discrimination, unless based upon a bona fide  
2 occupational qualification.

3 d. For any person to take reprisals against any person because  
4 that person has opposed any practices or acts forbidden under this  
5 act or because that person has filed a complaint, testified or assisted  
6 in any proceeding under this act or to coerce, intimidate, threaten or  
7 interfere with any person in the exercise or enjoyment of, or on  
8 account of that person having aided or encouraged any other person  
9 in the exercise or enjoyment of, any right granted or protected by  
10 this act.

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

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

1 advantages, facilities or privileges thereof on the basis of sex;  
2 provided further, that the foregoing limitation shall not apply to any  
3 restaurant as defined in R.S.33:1-1 or place where alcoholic  
4 beverages are served.

5 (2) Notwithstanding the definition of "a place of public  
6 accommodation" as set forth in subsection l. of section 5 of  
7 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,  
8 manager, superintendent, agent, or employee of any private club or  
9 association to directly or indirectly refuse, withhold from or deny to  
10 any individual who has been accepted as a club member and has  
11 contracted for or is otherwise entitled to full club membership any  
12 of the accommodations, advantages, facilities or privileges thereof,  
13 or to discriminate against any member in the furnishing thereof on  
14 account of the race, creed, color, national origin, ancestry, marital  
15 status, civil union status, domestic partnership status, pregnancy or  
16 breastfeeding, sex, gender identity, or expression, affectional or  
17 sexual orientation, disability or nationality of such person.

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

26 g. For any person, including but not limited to, any owner,  
27 lessee, sublessee, assignee or managing agent of, or other person  
28 having the right of ownership or possession of or the right to sell,  
29 rent, lease, assign, or sublease any real property or part or portion  
30 thereof, or any agent or employee of any of these:

31 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise  
32 to deny to or withhold from any person or group of persons any real  
33 property or part or portion thereof because of race, creed, color,  
34 national origin, ancestry, marital status, civil union status, domestic  
35 partnership status, pregnancy or breastfeeding, sex, gender identity  
36 or expression, affectional or sexual orientation, familial status,  
37 disability, nationality, or source of lawful income used for rental or  
38 mortgage payments;

39 (2) To discriminate against any person or group of persons  
40 because of race, creed, color, national origin, ancestry, marital  
41 status, civil union status, domestic partnership status, pregnancy or  
42 breastfeeding, sex, gender identity or expression, affectional or  
43 sexual orientation, familial status, disability, nationality or source  
44 of lawful income used for rental or mortgage payments in the terms,  
45 conditions or privileges of the sale, rental or lease of any real  
46 property or part or portion thereof or in the furnishing of facilities  
47 or services in connection therewith;

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

28 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
29 to deny to or withhold from any person or group of persons any real  
30 property or part or portion thereof because of the source of any  
31 lawful income received by the person or the source of any lawful  
32 rent payment to be paid for the real property; or

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

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

42 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
43 sale, rental, lease, assignment, or sublease any real property or part  
44 or portion thereof to any person or group of persons or to refuse to  
45 negotiate for the sale, rental, lease, assignment, or sublease of any  
46 real property or part or portion thereof to any person or group of  
47 persons because of race, creed, color, national origin, ancestry,  
48 marital status, civil union status, domestic partnership status,

1 familial status, pregnancy or breastfeeding, sex, gender identity or  
2 expression, affectional or sexual orientation, disability, nationality,  
3 or source of lawful income used for rental or mortgage payments, or  
4 to represent that any real property or portion thereof is not available  
5 for inspection, sale, rental, lease, assignment, or sublease when in  
6 fact it is so available, or otherwise to deny or withhold any real  
7 property or any part or portion of facilities thereof to or from any  
8 person or group of persons because of race, creed, color, national  
9 origin, ancestry, marital status, civil union status, domestic  
10 partnership status, familial status, pregnancy or breastfeeding, sex,  
11 gender identity or expression, affectional or sexual orientation,  
12 disability or nationality;

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

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

1 (4) 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 the source of any  
4 lawful income received by the person or the source of any lawful  
5 rent payment to be paid for the real property; or

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

13 i. For any person, bank, banking organization, mortgage  
14 company, insurance company or other financial institution, lender  
15 or credit institution involved in the making or purchasing of any  
16 loan or extension of credit, for whatever purpose, whether secured  
17 by residential real estate or not, including but not limited to  
18 financial assistance for the purchase, acquisition, construction,  
19 rehabilitation, repair or maintenance of any real property or part or  
20 portion thereof or any agent or employee thereof:

21 (1) To discriminate against any person or group of persons  
22 because of race, creed, color, national origin, ancestry, marital  
23 status, civil union status, domestic partnership status, pregnancy or  
24 breastfeeding, sex, gender identity or expression, affectional or  
25 sexual orientation, disability, familial status or nationality, in the  
26 granting, withholding, extending, modifying, renewing, or  
27 purchasing, or in the fixing of the rates, terms, conditions or  
28 provisions of any such loan, extension of credit or financial  
29 assistance or purchase thereof or in the extension of services in  
30 connection therewith;

31 (2) To use any form of application for such loan, extension of  
32 credit or financial assistance or to make record or inquiry in  
33 connection with applications for any such loan, extension of credit  
34 or financial assistance which expresses, directly or indirectly, any  
35 limitation, specification or discrimination as to race, creed, color,  
36 national origin, ancestry, marital status, civil union status, domestic  
37 partnership status, pregnancy or breastfeeding, sex, gender identity  
38 or expression, affectional or sexual orientation, disability, familial  
39 status or nationality or any intent to make any such limitation,  
40 specification or discrimination; unless otherwise required by law or  
41 regulation to retain or use such information;

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

43 (4) To discriminate against any person or group of persons  
44 because of the source of any lawful income received by the person  
45 or the source of any lawful rent payment to be paid for the real  
46 property; or

47 (5) To discriminate against any person or group of persons  
48 because that person's family includes children under 18 years of

1 age, or to make an agreement or mortgage which provides that the  
2 agreement or mortgage shall be rendered null and void upon the  
3 birth of a child. This paragraph shall not apply to housing for older  
4 persons as defined in subsection mm. of section 5 of P.L.1945,  
5 c.169 (C.10:5-5).

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

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

28 l. For any person to refuse to buy from, sell to, lease from or  
29 to, license, contract with, or trade with, provide goods, services or  
30 information to, or otherwise do business with any other person on  
31 the basis of the race, creed, color, national origin, ancestry, age,  
32 pregnancy or breastfeeding, sex, gender identity or expression,  
33 affectional or sexual orientation, marital status, civil union status,  
34 domestic partnership status, liability for service in the Armed  
35 Forces of the United States, disability, nationality, or source of  
36 lawful income used for rental or mortgage payments of such other  
37 person or of such other person's spouse, partners, members,  
38 stockholders, directors, officers, managers, superintendents, agents,  
39 employees, business associates, suppliers, or customers. This  
40 subsection shall not prohibit refusals or other actions (1) pertaining  
41 to employee-employer collective bargaining, labor disputes, or  
42 unfair labor practices, or (2) made or taken in connection with a  
43 protest of unlawful discrimination or unlawful employment  
44 practices.

45 m. For any person to:

46 (1) Grant or accept any letter of credit or other document which  
47 evidences the transfer of funds or credit, or enter into any contract  
48 for the exchange of goods or services, where the letter of credit,



1 contract, or other document contains any provisions requiring any  
2 person to discriminate against or to certify that he, she or it has not  
3 dealt with any other person on the basis of the race, creed, color,  
4 national origin, ancestry, age, pregnancy or breastfeeding, sex,  
5 gender identity or expression, affectional or sexual orientation,  
6 marital status, civil union status, domestic partnership status,  
7 disability, liability for service in the Armed Forces of the United  
8 States, or nationality of such other person or of such other person's  
9 spouse, partners, members, stockholders, directors, officers,  
10 managers, superintendents, agents, employees, business associates,  
11 suppliers, or customers.

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

17 The provisions of this subsection shall not apply to any letter of  
18 credit, contract, or other document which contains any provision  
19 pertaining to employee-employer collective bargaining, a labor  
20 dispute or an unfair labor practice, or made in connection with the  
21 protest of unlawful discrimination or an unlawful employment  
22 practice, if the other provisions of such letter of credit, contract, or  
23 other document do not otherwise violate the provisions of this  
24 subsection.

25 n. For any person to aid, abet, incite, compel, coerce, or induce  
26 the doing of any act forbidden by subsections l. and m. of section  
27 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to  
28 do so. Such prohibited conduct shall include, but not be limited to:

29 (1) Buying from, selling to, leasing from or to, licensing,  
30 contracting with, trading with, providing goods, services, or  
31 information to, or otherwise doing business with any person  
32 because that person does, or agrees or attempts to do, any such act  
33 or any act prohibited by this subsection; or

34 (2) Boycotting, commercially blacklisting or refusing to buy  
35 from, sell to, lease from or to, license, contract with, provide goods,  
36 services or information to, or otherwise do business with any person  
37 because that person has not done or refuses to do any such act or  
38 any act prohibited by this subsection; provided that this subsection  
39 shall not prohibit refusals or other actions either pertaining to  
40 employee-employer collective bargaining, labor disputes, or unfair  
41 labor practices, or made or taken in connection with a protest of  
42 unlawful discrimination or unlawful employment practices.

43 o. For any multiple listing service, real estate brokers'  
44 organization or other service, organization or facility related to the  
45 business of selling or renting dwellings to deny any person access  
46 to or membership or participation in such organization, or to  
47 discriminate against such person in the terms or conditions of such  
48 access, membership, or participation, on account of race, creed,

1 color, national origin, ancestry, age, marital status, civil union  
2 status, domestic partnership status, familial status, pregnancy or  
3 breastfeeding, sex, gender identity or expression, affectional or  
4 sexual orientation, disability or nationality.

5 p. Nothing in the provisions of this section shall affect the  
6 ability of an employer to require employees to adhere to reasonable  
7 workplace appearance, grooming and dress standards not precluded  
8 by other provisions of State or federal law, except that an employer  
9 shall allow an employee to appear, groom and dress consistent with  
10 the employee's gender identity or expression.

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

29 (a) The number of the hours worked by the employee which are  
30 counted towards the accruing of seniority, pension or other benefits;  
31 or

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

34 (2) For an employer to refuse to permit an employee to utilize  
35 leave, as provided for in this subsection q., which is solely used to  
36 accommodate the employee's sincerely held religious observance or  
37 practice. Except where it would cause an employer to incur an  
38 undue hardship, no person shall be required to remain at his place  
39 of employment during any day or days or portion thereof that, as a  
40 requirement of his religion, he observes as his Sabbath or other holy  
41 day, including a reasonable time prior and subsequent thereto for  
42 travel between his place of employment and his home; provided that  
43 any such absence from work shall, wherever practicable in the  
44 reasonable judgment of the employer, be made up by an equivalent  
45 amount of time and work at some other mutually convenient time,  
46 or shall be charged against any leave with pay ordinarily granted,  
47 other than sick leave, and any such absence not so made up or

1 charged, may be treated by the employer of that person as leave  
2 taken without pay.

3 (3) (a) For purposes of this subsection q., "undue hardship"  
4 means an accommodation requiring unreasonable expense or  
5 difficulty, unreasonable interference with the safe or efficient  
6 operation of the workplace or a violation of a bona fide seniority  
7 system or a violation of any provision of a bona fide collective  
8 bargaining agreement.

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

11 (i) The identifiable cost of the accommodation, including the  
12 costs of loss of productivity and of retaining or hiring employees or  
13 transferring employees from one facility to another, in relation to  
14 the size and operating cost of the employer.

15 (ii) The number of individuals who will need the particular  
16 accommodation for a sincerely held religious observance or  
17 practice.

18 (iii) For an employer with multiple facilities, the degree to which  
19 the geographic separateness or administrative or fiscal relationship  
20 of the facilities will make the accommodation more difficult or  
21 expensive.

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

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

30 (ii) This subsection q. shall not apply where the uniform  
31 application of terms and conditions of attendance to employees is  
32 essential to prevent undue hardship to the employer. The burden of  
33 proof regarding the applicability of this subparagraph (d) shall be  
34 upon the employer.

35 r. For any employer to take reprisals against any employee for  
36 requesting from any other employee or former employee of the  
37 employer information regarding the job title, occupational category,  
38 and rate of compensation, including benefits, of any employee or  
39 former employee of the employer, or the gender, race, ethnicity,  
40 military status, or national origin of any employee or former  
41 employee of the employer, regardless of whether the request was  
42 responded to, if the purpose of the request for the information was  
43 to assist in investigating the possibility of the occurrence of, or in  
44 taking of legal action regarding, potential discriminatory treatment  
45 concerning pay, compensation, bonuses, other compensation, or  
46 benefits. Nothing in this subsection shall be construed to require an  
47 employee to disclose such information about the employee herself  
48 to any other employee or former employee of the employer or to

1 any authorized representative of the other employee or former  
2 employee.

3 s. For an employer to treat, for employment-related purposes, a  
4 woman employee that the employer knows, or should know, is  
5 affected by pregnancy or breastfeeding in a manner less favorable  
6 than the treatment of other persons not affected by pregnancy or  
7 breastfeeding but similar in their ability or inability to work. In  
8 addition, an employer of an employee who is a woman affected by  
9 pregnancy shall make available to the employee reasonable  
10 accommodation in the workplace, such as bathroom breaks, breaks  
11 for increased water intake, periodic rest, assistance with manual  
12 labor, job restructuring or modified work schedules, and temporary  
13 transfers to less strenuous or hazardous work, for needs related to  
14 the pregnancy when the employee, based on the advice of her  
15 physician, requests the accommodation, and, in the case of a  
16 employee breast feeding her infant child, the accommodation shall  
17 include reasonable break time each day to the employee and a  
18 suitable room or other location with privacy, other than a toilet stall,  
19 in close proximity to the work area for the employee to express  
20 breast milk for the child, unless the employer can demonstrate that  
21 providing the accommodation would be an undue hardship on the  
22 business operations of the employer. The employer shall not in any  
23 way penalize the employee in terms, conditions or privileges of  
24 employment for requesting or using the accommodation. Workplace  
25 accommodation provided pursuant to this subsection and paid or  
26 unpaid leave provided to an employee affected by pregnancy or  
27 breastfeeding shall not be provided in a manner less favorable than  
28 accommodations or leave provided to other employees not affected  
29 by pregnancy or breastfeeding but similar in their ability or inability  
30 to work. This subsection shall not be construed as otherwise  
31 increasing or decreasing any employee's rights under law to paid or  
32 unpaid leave in connection with pregnancy or breastfeeding.

33 For the purposes of this section "pregnancy or breastfeeding"  
34 means pregnancy, childbirth, and breast feeding or expressing milk  
35 for breastfeeding, or medical conditions related to pregnancy, **[or]**  
36 childbirth, or breastfeeding, including recovery from childbirth.

37 For the purposes of this subsection, in determining whether an  
38 accommodation would impose undue hardship on the operation of  
39 an employer's business, the factors to be considered include: the  
40 overall size of the employer's business with respect to the number  
41 of employees, number and type of facilities, and size of budget; the  
42 type of the employer's operations, including the composition and  
43 structure of the employer's workforce; the nature and cost of the  
44 accommodation needed, taking into consideration the availability of  
45 tax credits, tax deductions, and outside funding; and the extent to  
46 which the accommodation would involve waiver of an essential  
47 requirement of a job as opposed to a tangential or non-business

1 necessity requirement.  
2 (cf: P.L.2013, c.220, s.2)

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4 2. This act shall take effect immediately.

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STATEMENT

9 This bill expands certain civil rights protections under the "Law  
10 Against Discrimination" P.L.1945, c.169 (C.10:5-1 et seq.) to  
11 include breastfeeding and expressing milk or related medical  
12 conditions. Under this bill, it would be a civil rights violation for a  
13 working woman to be fired or otherwise discriminated against  
14 because of breastfeeding or expressing her milk during breaks.

15 The bill also requires an employer to provide reasonable break  
16 time each day and a suitable location for an employee who is  
17 breastfeeding to express her milk in private.

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22 Expands civil rights protections to include breastfeeding;  
23 requires employers to provide reasonable accommodations for  
24 breastfeeding mothers.